

EXHIBIT “H”

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

WHITESTONE CONSTRUCTION)
CORP.,)
) Case No.
Plaintiff,) 1:20-cv-1006-GHW
)
v.)
)
YUANDA USA CORPORATION,)
)
Defendant.)

The videotaped Zoom virtual deposition of
MINGHIUA TAN, called for examination, taken pursuant
to notice and pursuant to the Federal Rules of Civil
Procedure of the United States District Courts, taken
before Annette Brewer, Certified Shorthand Reporter,
in and for the County of Cook and State of Illinois,
on February 4, 2021, at 8:30 a.m.

1 APPEARANCES:

2 GOETZ FITZPATRICK LLP

3 BY: Mr. Donald J. Carbone

One Penn Plaza, Suite 3100

4 New York, NY 10019

(212) 695-8100

5 dcarbone@goetzfitz.com

Appeared on behalf of Plaintiff;

6 FOX SWIBEL LEVIN & CARROLL LLP

7 BY: Mr. Adam L. Gill

200 W. Madison Street, 30th Floor

8 Chicago, Illinois 60606

(312) 224-1200

9 agill@fixswibel.com

Appeared on behalf of Defendant.

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1 THE VIDEOGRAPHER: We are now on the record
2 at 9:02 a.m., February 4, 2021. Please note that the
3 microphones are sensitive and may pick up whispering,
4 private conversations and cellular interference.
5 Please turn off all cell phones and place them away
6 from the microphones as they can interfere with the
7 deposition taking place unless all parties agree to
8 go off the record. This is media unit 1 of the video
9 recorded deposition of Charles Tan taken by counsel
10 for the plaintiff in the matter of Whitestone
11 Construction Corporation versus Yuanda USA
12 Corporation filed in the United States District
13 Court, Southern District, Case Docket
14 No. 20-cv-10006.

15 This deposition is being held via
16 Veritext Zoom video conference. My name is Ryan
17 Sohmer from Veritext Midwest. I am the videographer.
18 The court reporter is Annette Brewer. I am not
19 authorized to administer the oath. I am not related
20 to any party in this action nor am I financially
21 interested in the outcome.

22 Counsel and all present in the room
23 and everybody attending remotely will state their
24 appearances and affiliations for the record. If

1 there are any objections to proceeding please state
2 them at the time of your appearance, beginning with
3 the noticing attorney. The court reporter will swear
4 in the witness after everybody notices.

5 MR. CARBONE: Good morning. My name is
6 Donald Carbone. I am an attorney with Goetz
7 Fitzpatrick LLP, Whitestone Construction Corp's
8 attorney in the matter which is presently the subject
9 of this deposition.

10 Mr. Tan, good morning.

11 ROBIN XU MURPHY,
12 called as an interpreter herein, after having been
13 duly sworn to interpret all the questions from the
14 English language to the Mandarin language, and all
15 the answers from the Mandarin language to English,
16 testified as follows:

17 MR. CARBONE: We just had a procedural issue.
18 Would just like to confirm with Mr. Gill that due to
19 my omission of sending the documents to Veritext in
20 time, it was agreed between us that at the conclusion
21 of the deposition by tomorrow I will send out a
22 complete set of plaintiff's exhibits which were sent
23 to Mr. Gill previously which are being used at
24 today's deposition for the record purposes.

1 MR. GILL: We agree.

2 MINGHIUA TAN

3 called as a witness herein, after having been first
4 duly sworn, was examined and testified through the
5 interpreter as follows:

6 EXAMINATION

7 BY MR. CARBONE:

8 Q. Mr. Tan, the purpose of today's
9 information -- I'm sorry, today's deposition, my
10 purpose is to extract information from you in the
11 form of questions. It's not my purpose to trick you
12 in any manner. And if you do not understand any of
13 my questions, you can let me know that and I will be
14 happy to rephrase them. Because my goal here is to
15 get accurate answers to my questions. You understand
16 that?

17 A. No problem.

18 Q. Mr. Tan, what is the highest level of
19 education that you've achieved?

20 A. Bachelor's degree.

21 Q. And what discipline was that bachelor's
22 degree?

23 A. International business.

24 Q. And from what university did you obtain

1 that bachelor's degree?

2 A. Liaoning University in China.

3 Q. Where is that university located in
4 China?

5 A. It's Shenyang City, Liaoning Province,
6 China.

7 Q. What was the year you obtained that
8 degree?

9 A. 2004.

10 Q. As part of the curriculum to obtain that
11 degree, did you take any engineering or
12 architectural-related courses?

13 THE INTERPRETER: Counsel, could you please
14 repeat that question. I missed one.

15 BY MR. CARBONE:

16 Q. In order to obtain that degree, did you
17 take any engineering or architectural-related
18 courses?

19 A. No, there was no such classes.

20 Q. And other than your Bachelor of Arts
21 degree that you obtained in the year 2004 do you hold
22 any other degrees?

23 A. No.

24 Q. What is your present position at Yuanda?

1 A. Sales manager.

2 Q. When I use the word Yuanda, I am going to
3 be referring to Yuanda USA Corporation. Do you
4 understand that, Mr. Tan?

5 A. Yes.

6 Q. How long have you been a sales manager at
7 Yuanda?

8 A. Let me think. Before 2015 my title was a
9 business representative. So -- so it's from -- it's
10 since 2015 then.

11 Q. How long have you been an employee of the
12 Yuanda USA Corporation?

13 A. From July 2011. July or August. I am
14 not -- I can't remember clearly.

15 Q. What was your first position at Yuanda?

16 A. I started as a business representative.

17 Q. When was your first -- when did you first
18 become a business representative at Yuanda USA?

19 A. It's 2012 August since I started working
20 at Yuanda USA.

21 Q. In August 2012 was the first position you
22 held at Yuanda USA as a business representative?

23 A. Correct. Because before that I was
24 working at Yuanda in Shenyang engineering firm.

1 That's the parent company of Yuanda USA.

2 MR. CARBONE: Ms. Interpreter, when you say
3 Yuanda, is that what I am calling Yuanda?

4 THE INTERPRETER: Y-u-a-n-d-a.

5 BY MR. CARBONE:

6 Q. Let's just focus on for a moment,
7 Mr. Tan, when you first became employed at Yuanda
8 USA.

9 A. Yes, that's August 2012.

10 Q. Now, as a business representative at
11 Yuanda, in August of 2012 did you ever have a
12 particular territory that you were responsible for?

13 A. I was in charge mostly for the East
14 Coast, primarily New York.

15 Q. When you talk about the East Coast, you
16 are talking about the East Coast of the United
17 States?

18 A. Correct.

19 Q. And when you first became employed in
20 August of 2012, where was your office located?

21 A. Office was in Chicago.

22 Q. And what location in Chicago, do you
23 recall the address?

24 A. 36 West Randolph, Chicago.

1 Q. And as the business manager of Yuanda
2 responsible for the East Coast of the United States
3 what were your duties and responsibilities?

4 A. I was in charge of market development,
5 project building management and also coordination
6 with clients during the construction.

7 MR. CARBONE: There was a word before
8 development that I missed. What was the word before
9 development?

10 THE INTERPRETER: Market development.

11 MR. CARBONE: Thank you.

12 BY MR. CARBONE:

13 Q. In August 2012 how many people were in
14 attendance at Yuanda Chicago office on a daily basis?
15 Let me clarify that. On a daily basis.

16 A. Are you referring to the office personnel
17 here in Chicago office?

18 Q. Yes. 2012.

19 A. Actually I can't recall clearly because,
20 I will explain, because our office personnel follows
21 the project. If we have a project in California they
22 will go to California. If there's a project in New
23 York they will go to New York. So it's not always
24 fixed.

1 Q. Other than the Chicago office in 2012 did
2 Yuanda have any other offices in United States?

3 A. You are talking about 2012, right?

4 Q. Correct.

5 A. There was no other official office back
6 then. But we did have construction site, project
7 management office.

8 Q. Would it be correct that your
9 construction site project management offices would be
10 located where you had ongoing projects?

11 A. Correct.

12 Q. Today in the year 2021, does Yuanda have
13 any offices, permanent offices in United States other
14 than Chicago?

15 A. We have one in New York.

16 Q. And that's a permanent office?

17 A. Correct.

18 Q. And where is that office located?

19 A. It's in Flushing, near Queens.

20 Q. Do you have the address of that office?

21 A. I can't recall right now. We just opened
22 not long ago.

23 Q. Did you ever work out of the New York
24 office as opposed to working out of the Chicago

1 office?

2 A. I was stationed in New York before July
3 2019.

4 Q. And how long were you stationed in New
5 York for?

6 A. From August 2012.

7 Q. To when? August 2012 is up until when?

8 A. July 2019.

9 Q. Now, as a business representative for
10 Yuanda, who did you report to?

11 A. Feng Zhu, F-e-n-g, Z-h-u, the chairman of
12 Yuanda USA.

13 Q. Now, you indicated that in 2015 you
14 became a sales manager. What were your duties and
15 responsibilities as a sales manager for Yuanda?

16 A. The primary responsibility is similar to
17 what I was in charge for as a business rep.

18 Q. Okay. Tell me again what were your
19 duties and responsibilities. Give me a little bit
20 definition as the sales manager as opposed to being a
21 business rep.

22 A. So mainly market development. Maybe the
23 channels for market development may be different.
24 But right now that -- I won't be able to share the

1 details with you, the channel for marketing
2 development. For market development. It's new
3 project vetting. New project management and
4 coordination during the project with client and the
5 service. Coordination and service.

6 Q. As the sales manager who do you report to
7 at Yuanda?

8 A. Feng Zhu, Yuanda chairman and president.

9 Q. And where is the chairman and president's
10 office physically located?

11 A. He is stationed in New York.

12 Q. Is he stationed in New York at the
13 flushing office?

14 A. Right.

15 Q. If I leave a blank in the transcript,
16 Mr. Tan, upon the transcript of your review would you
17 be kind enough to fill in the address of Yuanda's
18 Flushing office?

19 A. Yeah.

20 Q. Now, once you became an employee of
21 Yuanda in 2012 to the present, was there any type of
22 formal training that was provided to you by Yuanda?

23 A. Every year Yuanda conducts such training
24 within the company.

1 Q. The type of training that's provided to
2 you within the company, what type of training is
3 that?

4 THE INTERPRETER: Mr. Tan to clarify one
5 word.

6 BY THE WITNESS:

7 A. The training will be near the area
8 that -- in the area that Yuanda touches or Yuanda is
9 involved, such as finance, project design,
10 insurance -- sorry. Finance, design, insurance and
11 bond and project management.

12 BY MR. CARBONE:

13 Q. Now, the training provided to you by
14 Yuanda, is that by people that are in the direct
15 employ of Yuanda as opposed to Yuanda bringing in
16 third-party vendors to give this training?

17 A. So for I can give you example. For
18 project design for instance it will be done by our
19 internal people. But for the insurance and bond we
20 will have third parties such as AIG to conduct.

21 Q. Mr. Tan, materials that are presently
22 fabricated by Yuanda for its projects here in the
23 United States, where are those materials fabricated?

24 A. Most of the material are fabricated at

1 our Shenyang plant.

2 Q. What province of China is the Shenyang
3 plant located?

4 A. It's in Liaoning Province,
5 L-i-a-o-n-i-n-g.

6 Q. So it would be correct that respect to
7 the project which is the subject of the lawsuit, the
8 Cuny, C-u-n-y, Sciame project that the materials
9 provided by Yuanda to Whitestone were manufactured at
10 the plant you just identified?

11 A. Correct.

12 Q. If there were materials for the subject
13 property that were not manufactured at the Chinese
14 plant, where would those materials be manufactured or
15 obtained?

16 A. Some material we buy from nearby local
17 suppliers such as nails for instance.

18 Q. What is the name and location of the
19 parent company of Yuanda?

20 A. It's knowledge and technology district of
21 Shenyang, city in Liaoning Province.

22 Q. I want to understand your answer. Are
23 you saying the parent of Yuanda USA Corporation is a
24 Chinese economic development company?

1 A. Okay.

2 THE INTERPRETER: The interpreter needs to go
3 over this one more time.

4 BY THE WITNESS:

5 A. Maybe it's better if I give you both the
6 name and address together. So the parent for Yuanda
7 USA is called Yuanda Aluminum Industry Engineering
8 Company. And the address is 20 13th Street, Shenyang
9 economic and technology development district in
10 Shenyang in Liaoning Province.

11 MR. CARBONE: Can the interpreter say again
12 the name of the entity? I got something like Yuanda.
13 What's the other name of the entity?

14 THE INTERPRETER: It's Shenyang, S-h-e-n.

15 MR. CARBONE: Could you spell that for the
16 reporter, please?

17 THE INTERPRETER: S-h-e-n-y-a-n-g.

18 MR. CARBONE: What's the next name?

19 THE INTERPRETER: Yuanda, Y-u-a-n-d-a,
20 Aluminum Industry Engineering Company.

21 BY MR. CARBONE:

22 Q. Do you know who owns Yuanda's parent
23 company you just described?

24 A. Shenyang Yuanda is a publicly-traded

1 company.

2 Q. Do you know if any local Chinese
3 government or the National Chinese government has any
4 ownership in the parent company?

5 A. Before it became a part of the traded
6 company, it was a private enterprise. But since it
7 went public I am not sure.

8 Q. Mr. Tan, we are going to start looking at
9 some of the documents. I am going to ask you to take
10 a look at Plaintiff's Exhibit No. 1 which is a notice
11 of deposition which is dated November 11, 2020.

12 (WHEREUPON, Exhibit No. 1 was
13 marked for identification.)

14 BY MR. CARBONE:

15 Q. Do you have that document? Mr. Tan, it's
16 this document here. If you look at the screen. It
17 says Plaintiff's 1.

18 A. I can't see it clearly what you are
19 holding up on your screen.

20 MR. CARBONE: Mr. Gill, he has a copy of the
21 exhibits I am presuming?

22 MR. GILL: I spoke with Mr. Tan yesterday and
23 he was at home. He said he was going to print off
24 the docs. My understanding is he has a hard copy and

1 electronic.

2 BY THE WITNESS:

3 A. You are right. Yes, I have this
4 document.

5 BY MR. CARBONE:

6 Q. So, Mr. Tan, I just want to be clear. In
7 the lower right-hand corner of the document is a tag
8 that says Plaintiff's Exhibit 1. Do you see that?

9 A. Yes.

10 Q. And it's a three-page document. Do you
11 agree with that?

12 A. Correct.

13 Q. I want you to turn to the third page of
14 the document which is entitled Schedule A, topics for
15 deposition. Do you see that?

16 A. Yes.

17 Q. Mr. Tan, prior to your deposition today,
18 did you read Schedule A which are the topics for the
19 deposition items 1 through 9?

20 A. I received this document before and I did
21 take a look.

22 Q. Do you want to re-read the document to
23 yourself before I ask you questions about it?

24 A. You can start with your question I think.

1 Q. Okay. There's nine topics that are going
2 to be discussed at your deposition today pursuant to
3 this notice of deposition. Are there any of the nine
4 listed topics on which you are not able to have an
5 in-depth discussion?

6 MR. GILL: Objection. Subject to the
7 objection and request for clarification that I
8 submitted on December 1 via e-mail. I sent a letter
9 to Mr. Kushner and your associate about providing
10 objections to various topics and clarifications. But
11 subject to that please answer.

12 BY THE WITNESS:

13 A. It depends on the specific subject, then
14 I can tell you if I have in-depth knowledge.

15 BY MR. CARBONE:

16 Q. Let me ask you subject number 1. Do you
17 have in-depth knowledge of that subject?

18 A. My answer would be the same to you. If
19 you ask me a specific question and if I know I would
20 answer. But like the rest of the subjects it seems
21 to me that the topic is broad so I can't tell you
22 exactly what's in that knowledge you are referring
23 to.

24 Q. Well, did you understand before appearing

1 for your deposition today that the attorney for
2 Whitestone would be asking you questions regarding
3 the various subjects?

4 A. Yes.

5 Q. In preparation for the deposition today,
6 did you meet with anybody whether in person or
7 virtual?

8 A. Yes, of course. I need to familiarize
9 myself with the information of this project, so I was
10 in touch with our designers and the people in the
11 plant.

12 Q. And that was people in the plant?

13 A. In the factory.

14 Q. Did you have any meetings with Mr. Gill
15 or any of Mr. Gill's associates?

16 A. I have been in communication with
17 Mr. Gill.

18 Q. When you say you had some kind of
19 communications with the designers, what designers did
20 you have communications with and at what location do
21 those designers work?

22 A. They are in Shenyang, S-h-e-n-y-a-n-g.

23 Q. Where does that individual work?

24 A. The designer works for Yuanda Aluminum

1 Industry Engineering Company.

2 Q. Is that a company that's also affiliated
3 with Yuanda USA Corp?

4 A. This company in relation to Yuanda USA is
5 the designer. Designer and -- he's supplier.

6 Q. Now, when you say that that company was
7 the supplier, were they the fabricator of all of the
8 materials provided by Yuanda USA to Whitestone in
9 connection with the Cuny, C-u-n-y, Sciame project?

10 A. Correct.

11 Q. And when you say you spoke to people at
12 the plant or the factory, was the plant or the
13 factory the same company for which that designer
14 worked that you spoke to?

15 A. Correct. It appears Shenyang Yuanda
16 Aluminum Industry Engineering Company.

17 Q. And where is that company located?
18 What's their address, if you know?

19 A. I have answered this question earlier.

20 Q. Could you answer it again for me, please?

21 A. No problem. 20 13th Street, economic and
22 technology development district of Shenyang City,
23 Liaoning, L-i-a-o-n-i-n-g.

24 Q. If I understand you correctly, you are

1 saying the designer you spoke to and the person you
2 spoke to at the plant, at the factory, the entity
3 they worked for is the parent company of Yuanda USA
4 Corp. Would that be fair?

5 A. Correct.

6 (WHEREUPON, Exhibit No. 3 was
7 marked for identification.)

8 BY MR. CARBONE:

9 Q. Let's take a look at the document that is
10 Plaintiff's 3. And that is an agreement between F.J.
11 Sciame Construction Co., Inc. and Whitestone
12 Construction Corp, subcontractor, dated October 7,
13 2013. That's been Bates-stamped as WCC 0838, WCC
14 01051.

15 Do you have that document, Mr. Tan?

16 A. Yes, I do.

17 Q. And when is the first time you saw this
18 document?

19 A. From the link you have provided.

20 Q. So you never -- other than seeing it as a
21 result of being transmitted to you for your
22 deposition today, is it your testimony that you have
23 never seen this document before?

24 MR. GILL: Objection. This document was not

1 a topic of deposition identified in 30(b)(6). To the
2 extent you are asking him questions as a
3 representative of Yuanda, we object. But I am not
4 going to obviously prevent you from asking questions
5 based on his personal knowledge. So with that
6 understanding please continue and answer.

7 MR. CARBONE: Just to clarify for the record,
8 I don't believe you have a valid objection because
9 the subject matter of today's deposition is the
10 purchase order between Whitestone and Yuanda which is
11 Plaintiff's Exhibit 2, and referenced in Plaintiff's
12 Exhibit 2 is the prime contract between Whitestone
13 and Sciame. So that is included within the subject
14 matter of today's deposition. I want the record to
15 be clear, but we don't need to argue about it any
16 further only because you are saying he can answer the
17 question.

18 MR. GILL: He can answer the question based
19 on his personal knowledge, not based on him being
20 representative of Yuanda in answering this question.
21 Just so we are clear. I am not going to argue
22 further. We have our disagreement.

23 MR. CARBONE: Mr. Gill, I want to be clear.
24 He is being produced today not in his personal

1 capacity but as the knowledgeable representative of
2 Yuanda USA; isn't that correct?

3 MR. GILL: That's correct. But if you want
4 him to answer questions he will only answer questions
5 regarding the subcontract based on his personal
6 knowledge, not based on him being a representative of
7 Yuanda because the topic of deposition does not
8 identify the obligations or subcontract between
9 Sciame and Whitestone as a subject of this
10 deposition.

11 MR. CARBONE: Well, we disagree on that.
12 Just so I am clear, Mr. Gill, he is now answering
13 this question based on his personal knowledge, not as
14 a representative or corporate representative of
15 Yuanda?

16 MR. GILL: I'm making the representation -- I
17 did not discuss this subcontract with him. I did not
18 prepare him to answer questions on this subcontract
19 and I have no knowledge whether he is capable of
20 answering questions based as a representative of
21 Yuanda. But for the interest of getting through this
22 deposition and allowing you to ask him questions, I
23 am not going to advise him not to answer.

24 BY MR. CARBONE:

1 Q. So, Mr. Tan, to get back on point, I
2 think the question I have for you, I don't know if we
3 got an answer to that question, is it your testimony
4 that the first time you saw this document is when it
5 was sent to you as part of the deposition exhibits in
6 connection with this deposition today?

7 A. You referring to the documents that
8 Whitestone -- it's a contract signed between
9 Whitestone and the general contractor; is that right?

10 Q. That is correct.

11 A. If you are referring to this document,
12 and I have not received it before and I have not seen
13 it before.

14 Q. Do you know if there's a copy of this
15 document in the Yuanda files in connection with this
16 project between Whitestone and Yuanda which is the
17 subject of this litigation?

18 A. You are talking about the purchase order
19 between Yuanda and Whitestone?

20 Q. No, I am talking about the project,
21 Mr. Tan, that is the subject matter of the purchase
22 order between Whitestone and Yuanda. And I am asking
23 about the file that was created by Yuanda with
24 respect to, you know, the matters that are identified

1 in the purchase order.

2 I am asking you whether there's a
3 copy of this agreement, Plaintiff's Exhibit 3, in
4 that Yuanda file to your knowledge?

5 A. If you are referring to Exhibit 3, I have
6 not received it before. I have not seen it before.

7 Q. Let's take a look at what's been marked
8 as Plaintiff's 2 for today. And that is the
9 Whitestone purchase order with Yuanda which is made
10 as of the date of October 24, 2013. That's been
11 Bates-stamped WCC 01100 to WCC 0119.

12 Do you have that document?

13 A. Yes.

14 (WHEREUPON, Exhibit No. 2 was
15 marked for identification.)

16 BY MR. CARBONE:

17 Q. Now, you are intimately familiar with
18 this document, Mr. Tan?

19 A. I have some general knowledge.

20 Q. And with respect to, if you go to page,
21 second physical page of the document which is 01101
22 where you have the signatures, do you see those
23 signatures?

24 A. Yes.

1 Q. And could you identify the signature on
2 the left there, please?

3 A. Feng Zhu, F-e-n-g, Z-h-u.

4 Q. And who is that gentleman? Is that the
5 chairman of the parent company of Yuanda?

6 A. She's the president of Yuanda USA.

7 Q. If you go to the middle of the page where
8 you have a -- the middle of the first page where you
9 have a paragraph that begins with Yuanda USA Corp.
10 Do you see that?

11 A. Yes.

12 Q. Let me ask you this. As the sales
13 manager for Yuanda, were you the Yuanda employee that
14 was primarily responsible for fulfilling Yuanda's
15 obligations under this purchase order with Whitestone
16 Whitestone?

17 MR. GILL: Objection to the -- it's vague. I
18 don't know what you mean by primarily responsible for
19 fulfilling the obligations.

20 BY MR. CARBONE:

21 Q. You can answer the question, Mr. Tan.

22 A. It's a team of --

23 MR. CARBONE: Ms. Interpreter, I can't hear
24 you. It's a team of who or what?

1 THE INTERPRETER: It's a team who executed
2 the (inaudible).

3 MR. CARBONE: The team that executed what?

4 THE INTERPRETER: Task, t-a-s-k.

5 BY MR. CARBONE:

6 Q. And who are the members of the team that
7 executed the task for Yuanda in connection with this
8 purchase order? Tell me their names and tell me
9 their positions at Yuanda.

10 A. First off, it's myself, Minghiua Tan. I
11 am in charge of the communication and coordination
12 with the client. And we have our chief designer,
13 Liang Ma, L-i-a-n-g, last name M-a. And our planner,
14 his name is Chong, C-h-o-n-g, last name is T-a-n.

15 Q. Anyone else on that team?

16 A. We have another tier of workers. So they
17 are designers and there's a chief designer. And
18 under the planner there are people who work in the
19 factory.

20 Q. When you say a planner, what is the role
21 of the planner on the team that you are describing?

22 A. The planner is in charge of the
23 procurement of the material and the fabrication and
24 the timeline, overall timeline for the project to

1 satisfy the project time.

2 Q. Mr. Tan, as the sales manager who is
3 responsible for the East Coast, primarily New York,
4 were you the team leader with respect to the team you
5 just described?

6 A. I won't say that I am the lead for this
7 project because different people have different
8 roles. And for instance for the design part it's the
9 chief designer's work. And also the planner has --
10 the planner is responsible for meeting the timeline
11 of the project. But we have coordination among us.

12 Q. Who at Yuanda acts as the liaison between
13 Yuanda and Whitestone in connection with getting the
14 product properly manufactured -- withdrawn.

15 Who at Yuanda is the primary liaison
16 between Yuanda and Whitestone in making sure that
17 Yuanda's product is designed properly, engineered
18 properly, manufactured properly and delivered to the
19 job site in a timely manner?

20 Is there one person who has primary
21 responsibility for that at Yuanda?

22 MR. GILL: On the project or generally?

23 MR. CARBONE: This project.

24

1 BY THE WITNESS:

2 A. Our chief designer would be that person
3 who's primarily responsible for the design,
4 fabrication and delivery.

5 BY MR. CARBONE:

6 Q. That was the name of the individual you
7 provided earlier; correct?

8 A. This project stretched out pretty long,
9 so initially the person's name is L-i-a-n-g, M-a, Ma,
10 Liang Ma. And since it is sent to a different person
11 whose name Y-u-e, and last name is Y-u-a-n.

12 Q. Mr. Tan, if you look at the first page of
13 the exhibit, Plaintiff's No. 2, and if you look at
14 the paragraph number 3, the second from the bottom,
15 do you see that?

16 THE INTERPRETER: Could you say that again,
17 please. Second line from the bottom paragraph?

18 BY MR. CARBONE:

19 Q. It's on the first page of the document,
20 paragraph number 3. Do you see that?

21 A. Yes.

22 Q. Can you read that to yourself, please.

23 A. Are you asking about that paragraph?

24 Q. Yes, paragraph number 3. I want you to

1 read it to yourself so I can ask you a question or
2 questions about it.

3 A. Okay.

4 Q. Do you understand the word subcontractor
5 there to mean Whitestone?

6 A. Yes.

7 Q. And the vendor, you understand to be
8 Yuanda; correct?

9 A. Correct.

10 Q. And where it says vendor shall cooperate
11 and coordinate with all the work of subcontractor or
12 Whitestone so there will be no delays or disruptions
13 of engineering review, product installation or other
14 work on the project, what was your understanding of
15 that sentence?

16 A. My understanding is that Yuanda needs to
17 fulfill our obligation based on this contract which
18 is based on the purchase order. We have our work
19 scope and timeline as far as the design, fabrication
20 and delivery.

21 Q. Do you also understand this sentence to
22 indicate that with respect to the initial
23 installation of the Yuanda project or if there was
24 any remedial work to be performed in connection with

1 the Yuanda product that Yuanda had to provide
2 materials in a timely manner so as to not delay or
3 disrupt the installation of the product at the job
4 site, do you understand that?

5 MR. GILL: Objection. Go ahead and answer.

6 BY THE WITNESS:

7 A. I would say that during the project if
8 there are issues caused by any party, maybe other
9 party, if there is any delay we would work to -- to
10 remedy the situation. During the construction there
11 are issues coming up. Some may be different parties'
12 responsibility. Yuanda will fix the problem. But
13 there are issues that may be caused by other parties.
14 Maybe by the general contractor.

15 BY MR. CARBONE:

16 Q. Mr. Tan, I am going to ask you to put
17 aside any delays or complications caused by any third
18 party. I want you to focus on simply between
19 Whitestone and Yuanda.

20 Do you have an understanding with
21 respect to this paragraph that if Whitestone was
22 requesting Yuanda to provide materials with respect
23 to remedial work directed by others that Yuanda had a
24 responsibility not to cause any delays or disruptions

1 with respect to Whitestone's installation of that
2 product? Do you understand that?

3 MR. GILL: You can answer.

4 BY THE WITNESS:

5 A. I saw that and I understand that Yuanda
6 has its obligation. Our obligations. But the
7 precondition of that is that the issue is caused by
8 Yuanda.

9 BY MR. CARBONE:

10 Q. Where is -- Mr. Tan, point me to the
11 language in the agreement that says Yuanda only has
12 to prevent delays or disruptions regarding the
13 product installation if the issue was created by
14 Yuanda. Point that out for me in the agreement,
15 please.

16 MR. GILL: Objection. Calls for legal
17 conclusion. Go ahead and answer.

18 MR. CARBONE: All right.

19 BY THE WITNESS:

20 A. This is my understanding of the terms of
21 the contract.

22 BY MR. CARBONE:

23 Q. I know that, Mr. Tan, and I am asking you
24 to point out specifically upon which that

1 understanding is based in this agreement which you
2 have in front of you. Can you do that for me,
3 please?

4 A. I stated at the very beginning that I
5 have an overall or general understanding of this
6 project. But if you ask me for the specific wording
7 I don't know.

8 Q. Mr. Tan, you were produced today as a
9 corporate representative, and one of the topics for
10 your deposition was spelled out in item number 4 in
11 the notice, which is Plaintiff's Exhibit 1, which is
12 number 4 states, quote, Yuanda's obligations under
13 the contract, capital C, its understanding thereof.
14 Do you see that?

15 A. Yes.

16 Q. Okay. Well, with respect to you were
17 just describing your interpretation of Yuanda's
18 obligations under that agreement, you're now telling
19 me you don't have a basis because you are not
20 familiar enough with the agreement even though that
21 was one of the primary purposes for your production
22 today?

23 MR. GILL: Objection. Mr. Tan was produced
24 subject to the objection as stated in Yuanda's

1 December 1 letter of objection and clarification
2 which states Yuanda objects to the extent that
3 Whitestone will ask questions that calls for a legal
4 conclusion regarding, quote, Yuanda's obligation
5 under the contract, end quote, a term which is not
6 defined. Go ahead and answer.

7 BY MR. CARBONE:

8 Q. Mr. Tan, I am not asking -- I am asking
9 you for the basis of your statement that Yuanda has
10 an obligation not to cause delays or disruption only
11 in the event if the problem is caused by Yuanda. I
12 am asking you for the basis of that statement. Is it
13 part of this agreement, the purchase order or is it
14 something extraneous to the purchase order?

15 MR. GILL: Objection. The document speaks
16 for itself. Asks for legal conclusion. Go ahead and
17 answer.

18 BY THE WITNESS:

19 A. All obligations have preconditions. And
20 I cannot pinpoint to the wording or the specific
21 content you are referring to in the contract. But
22 it's all -- the point is if there is any breach of
23 the contract.

24

1 BY MR. CARBONE:

2 Q. That's the end of the answer?

3 A. Yes.

4 Q. Mr. Tan, the preconditions you are
5 referring to, could you point those out specifically
6 where they are in the agreement, the purchase order,
7 please.

8 A. So in this document there is a lot of
9 description of responsibility or obligation. So my
10 point is did we fulfill our obligation based on the
11 contract.

12 Q. That's his answer?

13 A. Yes, this is my understanding. Well, the
14 contract or disagreement right now is whether we have
15 fulfilled our obligation based on the contract.

16 Q. Mr. Tan, my question was can you point
17 out anything specific in the purchase order to
18 support your position which you previously testified
19 regarding? Can you do that?

20 Can you point out verbiage in the
21 agreement that you are relying on for your earlier
22 testimony?

23 MR. GILL: Objection. Please answer.

24

1 BY THE WITNESS:

2 A. My answer is the same. That third
3 paragraph has described what Yuanda's obligation is
4 and how we should fulfill our obligation.

5 BY MR. CARBONE:

6 Q. Is there anything other than the words in
7 the third paragraph you are relying on for your
8 earlier answer?

9 A. No, I have nothing further to provide
10 you.

11 Q. Mr. Tan, if you go to the page which is
12 in the lower left, Bates-stamp 01102, which at the
13 top it says purchase agreement terms and conditions.
14 If you could go to that page, please.

15 A. Yes, I do see it.

16 Q. And if you look at the second paragraph,
17 paragraph number 2 where it talks about other
18 agreements incorporated by reference. The first
19 sentence refers to a subcontract agreement between
20 Whitestone and Sciame for work at the Cuny, Cuny, NY
21 CCT new academic building located at Jay Street. You
22 see that?

23 MR. GILL: Objection. It's not what the
24 document actually states. Go ahead and answer.

1 BY THE WITNESS:

2 A. Yes, I do see.

3 BY MR. CARBONE:

4 Q. So by looking at this, you could
5 ascertain that this is referencing a prime contract
6 between Whitestone and Sciame in connection with the
7 Cuny new academic building project; correct?

8 MR. GILL: Objection. Mischaracterizes what
9 the document states. Go ahead and answer.

10 BY THE WITNESS:

11 A. I see. There is this sentence. Yes, my
12 answer is I see this sentence.

13 BY MR. CARBONE:

14 Q. Mr. Tan, is it your understanding of the
15 purchase order between Whitestone and Yuanda USA that
16 Whitestone had a prime contract with Sciame in
17 connection with the Cuny project and with respect to
18 the curtain wall aspects of the project they were
19 subcontracting out to Yuanda, the curtain wall
20 system, design, engineering, structural calculations,
21 shop drawing, product data and sample submittals,
22 among other things. Is that your understanding?

23 A. Yes.

24 Q. Because, Mr. Tan, if you go back to the

1 first page of the document, the paragraph towards the
2 middle of the page beginning with Yuanda USA
3 Corporation, that explains in general terms the scope
4 of work that Whitestone is subcontracting to Yuanda
5 in connection with the project; isn't that correct?

6 A. I will answer your question in two parts.
7 The first part is I understand that there is -- or
8 I'm aware that there is Whitestone, what you refer to
9 as the primary contract or prime contract. I
10 understand that there is a contract between
11 Whitestone and the general contractor. But we don't
12 know the details. We have not received that document
13 so we are not sure or clear of the detailed content.

14 Q. Mr. Tan, are you aware whether Yuanda
15 ever requested a copy of the prime contract from
16 Whitestone?

17 MR. GILL: Clarification. Are you talking
18 about the prime contract between the owner and Sciame
19 or the contract between Whitestone and Sciame?

20 MR. CARBONE: I am talking about the prime
21 contract as is defined in the purchase order which is
22 the agreement entered into between Whitestone and
23 Sciame which is Plaintiff's Exhibit No. 3.

24

1 BY THE WITNESS:

2 A. What's your question that -- your
3 question was have we requested this document?

4 BY MR. CARBONE:

5 Q. My question is, is he aware whether
6 Yuanda had ever requested a copy of the prime
7 contract referenced in the purchase order which is
8 the agreement between Whitestone and Sciame?

9 A. My recollection is that we have requested
10 it.

11 Q. And do you know if you requested it in
12 writing?

13 A. My recollection is that we -- we have
14 requested via e-mail.

15 Q. When is your recollection that it was
16 first requested by Yuanda from Whitestone?

17 A. We were kind of aware of that contract
18 while we were working on the purchase order or our
19 contract with Whitestone.

20 Q. So is that the first time that Yuanda
21 requested the prime contract was when Yuanda and
22 Whitestone were negotiating the purchase order?

23 A. I am not 100 percent sure but I think
24 that's when we had requested.

1 Q. When was the first time, if you received
2 the document, when was the first time Yuanda received
3 it, if you know?

4 A. Which contract are you referring to?

5 Q. The contract we have been talking about
6 for the last couple of minutes, the prime contract
7 between Whitestone and Sciame that you say Yuanda
8 requested for negotiations.

9 MR. GILL: Objection. Mischaracterizes
10 testimony. He didn't say during negotiation. He
11 said it was during --

12 MR. CARBONE: Gill, if you don't want to be
13 accused of coaching the witness you can object.

14 MR. GILL: Clarify your question to be more
15 accurate.

16 BY THE WITNESS:

17 A. My recollection we have required or
18 requested this but Whitestone has not provided us.

19 BY MR. CARBONE:

20 Q. Let's go to --

21 MR. GILL: Can we take a break? Sounds like
22 you are changing topics or document.

23 MR. CARBONE: We can definitely take a break,
24 Mr. Gill. How long do you want, five or ten?

1 MR. GILL: Just five. Five always turns into
2 ten.

3 MR. CARBONE: You are right about that.
4 Can't argue about that. See you in five.

5 THE VIDEOGRAPHER: Off the record at
6 a.m.

7 (WHEREUPON, a recess was had.)

8 THE VIDEOGRAPHER: We are now back on the
9 record at 10:55 a.m.

10 BY MR. CARBONE:

11 Q. Mr. Tan, we were talking, we were still
12 in Plaintiff's 2 and we are on the third physical
13 page of the purchase agreement, terms and conditions.
14 That's the title at the top, page WCC 01112. Are you
15 there, sir?

16 A. Yes, I have it.

17 Q. Mr. Tan, if you go to paragraph number 2
18 on that page where it says other agreements
19 incorporated by reference. Do you see that?

20 A. Yes.

21 Q. If you go down, 1, 2, 3 -- sixth line.
22 The sixth line towards the right says vendor shall
23 assume. Do you see that?

24 A. Yes.

1 Q. If you can read that paragraph, sorry,
2 that sentence to yourself where it says vendor shall
3 assume. If you could read that up until the words
4 extension of time. Extensions of time. So I am
5 asking you to read to yourself, 1, 2, 3, 4, 5 lines,
6 please.

7 A. I am done.

8 Q. In the third line where I asked you to
9 read where it says pertaining to the prime contract.
10 You understood that to be the prime contract between
11 Whitestone and Sciame; is that correct?

12 A. Correct.

13 Q. And in the next line where it says, and
14 shall be bound by the rulings of subcontractor,
15 contractor and owner and architect/engineer,
16 including but not limited to extensions of time. Do
17 you see that?

18 A. Yes.

19 Q. And doesn't that language, sir, mean that
20 Yuanda is bound by the rulings of Whitestone, Sciame,
21 the owner which is Cuny, and the architect/engineer?
22 Do you understand that, rulings they make under the
23 prime contract?

24 MR. GILL: Objection. Calls for legal

1 conclusion. The document speaks for itself. Go
2 ahead and answer.

3 BY THE WITNESS:

4 A. Yes, I see that sentence.

5 BY MR. CARBONE:

6 Q. And I am asking you what that sentence
7 means to you as the person produced by Yuanda who has
8 familiarity on the topic of the purchase order, what
9 that says?

10 Doesn't that sentence mean that if
11 the owner makes a determination or the contractor
12 makes the determination that Yuanda is bound by that
13 as a result of signing this purchase order?

14 MR. GILL: Same objection. Go ahead and
15 answer.

16 BY THE WITNESS:

17 A. My answer to you is yes, I see the
18 sentences or the sentence but I cannot give you my
19 legal interpretation of the meaning.

20 BY MR. CARBONE:

21 Q. I am not asking your legal
22 interpretation, Mr. Tan. I am asking for your
23 interpretation as a layperson who's presented here
24 today with the familiarity of the purchase order.

1 What is your interpretation as a layperson?

2 A. The contract is written as such. I am
3 really not -- I don't have any legal background so I
4 can't give you my personal interpretation of the
5 contract.

6 Q. Mr. Tan, if you go back to the sixth line
7 where the sentence begins, it says, vendor shall
8 assume. Do you see that?

9 A. That's the same paragraph you asked me to
10 read by myself earlier, right?

11 Q. Correct.

12 A. Yes, I see.

13 Q. So where it says, vendor shall assume,
14 then if you go down, and shall be bound. That's
15 referring to the vendor, is it not? So it reads in
16 the context of the sentence where it says, shall be
17 bound, it means the vendor shall be bound by the
18 rulings of subcontractor, which in this case is
19 Whitestone, contractor, which in this case is Sciame,
20 and owner, which is in this case is Cuny, C-u-n-y,
21 and the architect and engineer. Do you see that?

22 MR. GILL: Objection.

23 BY THE WITNESS:

24 A. Yes, I see.

1 BY MR. CARBONE:

2 Q. Okay. So then you understand the
3 sentence to essentially read that Yuanda shall be
4 bound by the rulings of the subcontractor, the
5 contractor, the owner and the architect/engineer.

6 What does that mean to you as a
7 layperson? I am not asking for a legal opinion.

8 A. I don't have any other interpretation.
9 It is as what is written.

10 Q. Mr. Tan, isn't it your understanding that
11 if Sciame issues a ruling rejecting Yuanda's work
12 that Yuanda would be bound by that ruling based upon
13 this sentence?

14 MR. GILL: Objection.

15 BY THE WITNESS:

16 A. I won't be able to answer this question
17 because I won't be able to -- I don't know the scope
18 of this sentence.

19 BY MR. CARBONE:

20 Q. Mr. Tan, were you involved on behalf of
21 Yuanda in negotiating this purchase order with
22 Whitestone?

23 A. Yes.

24 Q. When you negotiated or participated in

1 negotiations of the terms of this purchase order with
2 Whitestone, is it your testimony you don't have
3 any -- you had no understanding as to what it means
4 by Yuanda shall be bound by the rulings of the
5 subcontractor, contractor and owner and
6 architect/engineer? Is that your testimony?

7 A. I can't explain to the legal extension.
8 But as the sales manager my interpretation or my
9 understanding is that Yuanda has to fulfill our
10 obligation based on the project documents.

11 Q. And this purchase order is part of the
12 project documents; isn't that correct, sir?

13 A. Correct.

14 Q. Mr. Tan, isn't it your understanding that
15 at some point in time Whitestone rejected Yuanda's
16 work based on Sciame's rejection of Yuanda's work?

17 MR. GILL: Objection. Go ahead and answer.

18 BY THE WITNESS:

19 A. Yes, Yuanda did receive such notification
20 from Whitestone containing this information.

21 BY MR. CARBONE:

22 Q. Can we take a look at Plaintiff's 15
23 which is Whitestone's letter to Yuanda which is dated
24 Yuanda 24, 2019.

1 A. Yes.

2 Q. You have it?

3 A. Yes, I see.

4 (WHEREUPON, Exhibit No. 15 was
5 marked for identification.)

6 BY MR. CARBONE:

7 Q. Is this the rejection letter you referred
8 to just moments ago?

9 A. This should be one of the letters but I
10 am not sure if this is the first letter. Yeah, we
11 have received this letter.

12 Q. Okay. So is this one of the rejection
13 letters you referred to earlier?

14 A. Correct.

15 Q. Let's go back to Plaintiff's No. 2 which
16 is the purchase order. Let's go to the page which is
17 01105. In the bottom of the page there's an
18 unnumbered paragraph. It follows after paragraph 10
19 that says changes. But it talks about inspection in
20 defective work. Let me know when you get to that
21 page, sir, please.

22 A. Yes, I see.

23 Q. If you go down in that paragraph four
24 lines, it begins, vendor shall promptly prepare the

1 plan for the approval of the subcontractor. In order
2 to replace or correct any vendor's work, capital V,
3 capital W, which subcontractor shall reject as
4 failing to perform to the requirements of the
5 purchase order and/or contract documents rather
6 rejected before or after installation with the
7 exclusion of the those specified in item b, close
8 paren, listed below. Do you see that?

9 A. I am looking for it. Yeah, I see.

10 Q. After Whitestone rejected Yuanda's work
11 via the June 24, 2019 letter which is Plaintiff's
12 Exhibit 15, did Yuanda prepare a plan for the
13 approval of Whitestone to replace or correct Yuanda's
14 work that was being rejected?

15 MR. GILL: Objection. Go ahead and answer.

16 BY THE WITNESS:

17 A. That has been responded to Whitestone
18 that Yuanda will be willing to work with Whitestone
19 to -- we are willing to provide the design and the
20 calculation and the materials.

21 BY MR. CARBONE:

22 Q. Well, Mr. Tan, let's take a look at
23 Plaintiff's 16 which is a letter from Yuanda dated
24 June 28, 2019. If you could find that, please.

1 A. Yes, I found.

2 (WHEREUPON, Exhibit No. 16 was
3 marked for identification.)

4 BY MR. CARBONE:

5 Q. And this is Mr. Zhu, Z-h-u, that's
6 Yuanda's response to Whitestone's June 24, 2019
7 letter which is Plaintiff's Exhibit 15; is that
8 correct?

9 A. Correct.

10 Q. So if you look at the last paragraph,
11 Mr. Tan, which says, however, if Sciame insists of
12 the modification and Yuanda is provided with
13 corresponding cost, then Yuanda is willing to
14 cooperate with Whitestone to complete the relevant
15 remedial work. Do you see that?

16 A. First off, I can see the sentence.

17 Q. Anything else?

18 A. What is the question that you want to
19 ask?

20 Q. The question I want to ask is, Mr. Zhu
21 conditioned Yuanda's cooperation with respect to the
22 remedial work on the requirement that Yuanda be paid;
23 isn't that correct?

24 MR. GILL: Objection. Go ahead and answer.

1 BY THE WITNESS:

2 A. I will share with you briefly the
3 situation we were facing at the time.

4 BY MR. CARBONE:

5 Q. That's not my question. My question,
6 Mr. Tan, is where Mr. Zhu says Yuanda -- it says
7 Yuanda is provided with corresponding cost and Yuanda
8 is willing to cooperate with Whitestone to complete
9 the relevant remedial work.

10 Do you understand that language as
11 Mr. Zhu is saying provided -- Yuanda was provided
12 with the corresponding cost being paid, that was a
13 condition for Yuanda's cooperation? Is that your
14 understanding of Mr. Zhu's language?

15 MR. GILL: Objection. Foundation. Go ahead
16 and answer.

17 BY THE WITNESS:

18 A. My understanding is that if we are
19 compensated additionally then we are willing to go
20 ahead and do the work. But it's because -- it's not
21 because of Yuanda's fault. This is actually a change
22 to the project, a change was made to the project. We
23 were willing to cooperate with Whitestone for the --
24 for what I have mentioned before, the design, the

1 calculation and the material for the project. But we
2 should be compensated because this is change of
3 order.

4 BY MR. CARBONE:

5 Q. Mr. Tan, I understand your position on
6 behalf of Yuanda. What I am just trying to clarify
7 for informational purposes is by the last paragraph
8 of this letter written by Mr. Zhu, it's your
9 understanding that in order for Yuanda to cooperate
10 with Whitestone to complete the remedial work, a
11 condition that Yuanda is putting on their
12 cooperation, is that they are provided with
13 corresponding cost which means they wanted to be
14 paid?

15 MR. GILL: Objection. Go ahead and answer.

16 BY THE WITNESS:

17 A. I won't make further comments on this
18 sentence because it is what it is or how it is
19 written. But my answer would be the same to your
20 question as I did earlier.

21 BY MR. CARBONE:

22 Q. Mr. Tan, did you discuss this letter, the
23 subject matter of this letter with Mr. Zhu before the
24 letter was sent?

1 A. Yes. The people that I mentioned
2 earlier, the chief designer, the planner. So we have
3 a discussion about it.

4 Q. Did you prepare a draft of this letter
5 for Mr. Zhu's signature initially?

6 A. We have or we had office personnel
7 drafting this letter but we all had input.

8 Q. And did you have input, sir, in the last
9 paragraph of this letter with reference to the
10 language, quote, with corresponding cost?

11 A. I have shared with you before this came
12 from a group consensus because I participated so I
13 agree with the idea.

14 Q. Mr. Tan, would it be fair to say based on
15 your earlier testimony regarding extra work or change
16 order that this letter is stating that Yuanda is
17 willing to cooperate with Whitestone provided Yuanda
18 receives a monetary change order paying it for its
19 costs related to performance of their remedial work
20 including providing of the materials? Would that be
21 a fair statement?

22 A. The sentence is written as it is. I have
23 shared with you the background of how we came to the
24 consensus. My understanding is that we had

1 communication with Whitestone and we actually had the
2 same opinion of the matter. Initially we had
3 communication with Whitestone and they have shared
4 with us their sense of this matter.

5 Q. Mr. Tan, the position of Whitestone is
6 that Whitestone was entitled to a change order and
7 therefore Yuanda was entitled for a change order as a
8 result of the remedial work directed by Sciame; is
9 that correct?

10 A. I can only respond to you that both
11 Whitestone and Yuanda perceived this as change of
12 order.

13 Q. And given that Yuanda perceived this as
14 being change order work, is it Mr. Zhu telling
15 Whitestone that Yuanda will cooperate with them
16 provided they are paid for doing it?

17 A. So if Whitestone and Yuanda both perceive
18 this as change order then naturally Yuanda should be
19 compensated according. But during our correspondence
20 with Whitestone we have always expressed our
21 willingness to work with them.

22 Q. Mr. Tan, with respect to this particular
23 letter, the willingness of Yuanda to cooperate with
24 Whitestone along the conditions as set forth in the

1 last paragraph, would that be a fair statement in
2 this letter?

3 A. This letter was in the response to the
4 letter from Whitestone that they were refusing our
5 work.

6 Q. I just want to be clear when you say they
7 were refusing your work. Who are you talking about?

8 A. I am referring to the Exhibit 15. That
9 letter from Whitestone rejecting Yuanda's work
10 stating that it's not conforming.

11 Q. If the witness could in the same document
12 which is the purchase order, if the witness can go --
13 we're in the same paragraph. And if you -- we are on
14 the last paragraph of the page. Go down eight lines
15 and the sentence towards the right where it says the
16 vendor does not do so in a reasonable amount of time.
17 Do you see that?

18 MR. GILL: WCC 1105?

19 MR. CARBONE: Correct.

20 THE INTERPRETER: The last paragraph?

21 BY MR. CARBONE:

22 Q. We were talking about earlier where it
23 says inspection and defective work. That paragraph.

24 A. Yes.

1 Q. Eight lines down. Eight lines down to
2 the right. You see that?

3 A. Yes.

4 Q. The sentence before is talking about
5 vendor shall promptly replace or correct any vendor's
6 work. Do you see that? The line directly above that
7 says upon approval. You have it?

8 A. Yes.

9 Q. It says, upon approval vendor's plan for
10 subcontractor vendor shall promptly replace or
11 correct any vendor's work. Do you see that?

12 A. Yes.

13 Q. And then it says if vendor does not do
14 so. The do so refers back to promptly replace or
15 correct any vendor's work, does it not?

16 MR. GILL: Objection.

17 BY THE WITNESS:

18 A. What's your question? Did I see this? I
19 see it.

20 BY MR. CARBONE:

21 Q. No, my question is, where it says if
22 vendor does not do so, that means if vendor does not
23 promptly replace or correct any vendor's work then
24 subcontractor shall have the right to do so. Is that

1 your understanding of that sentence?

2 A. I see the contract term was written that
3 way.

4 Q. I am asking you for your understanding of
5 the contract term written that way.

6 A. I understand what this sentence means.

7 Q. Well, does the sentence mean to you that
8 if Yuanda fails to replace or correct its work that
9 Whitestone could do it on behalf of Yuanda?

10 You understand that to mean what the
11 sentence says?

12 A. The sentence is written clearly as it. I
13 don't have any other explanation.

14 Q. Okay. And then it says -- read on
15 towards that sentence. And I am talking about the
16 sentence that begins with, if vendor does not. If
17 you go down to the next line picking up in the middle
18 of the sentence, it says, and vendor shall be liable
19 to subcontractor for the cost thereof. Do you see
20 that?

21 A. Yes, I do.

22 Q. And do you understand that the cost
23 thereof is referring back to replace or correct any
24 vendor's work?

1 A. My answer to you would be the same. The
2 sentence is written clearly. I won't be giving any
3 personal interpretation or explanation.

4 Q. So if the sentence is written clearly,
5 you understand the cost thereof refers to replace or
6 correct any vendor's work from the prior sentence?
7 If it's clear, is that your understanding?

8 A. So my answer basically is the same. But
9 I want to add that if Yuanda has failed to execute
10 according to the contract to fulfill our obligation
11 then the responsibility or liability occurs only if
12 Yuanda has failed to fulfill its obligation according
13 to the contract.

14 Q. Could you point out in the contract the
15 language that supports the statement you just made?

16 A. It was the sentence on the sixth line. I
17 was only trying to explain that sentence.

18 Q. I know you are trying to explain the
19 sentence. I am asking you in the purchase order is
20 there language that supports the position of your
21 interpretation of the sentence?

22 A. I don't have any position or opinion. I
23 only wanted to point out the wording of the sentence.
24 I only want to point out this sentence. No other

1 opinion or comments.

2 Q. So, Mr. Tan, let me ask you this. If you
3 had a situation where Yuanda worked with not in
4 compliance with the contract documents and if it was
5 rejected by Whitestone and Yuanda failed to remediate
6 the work after being directed by Whitestone to do so,
7 you would agree with me then that all the costs
8 related to that remedial work performed by Whitestone
9 would be the responsibility of Yuanda, would it not?

10 MR. GILL: Objection. Go ahead and answer.

11 BY THE WITNESS:

12 A. My answer to your question is still the
13 same. It boils down to the point of whether the
14 nonconforming or -- the rejection was caused by
15 Yuanda's failure to comply with the contract with the
16 purchase order.

17 BY MR. CARBONE:

18 Q. Mr. Tan, my question is, assume for a
19 moment that the failure to comply was the
20 responsibility of Yuanda, would you not agree with me
21 that then Yuanda would be responsible for all of the
22 remedial costs?

23 MR. GILL: Objection. Incomplete
24 hypothetical, misstates the document. Go ahead and

1 answer.

2 BY THE WITNESS:

3 A. Your question is hypothetical. So mine
4 too, yes, indeed. The problem was caused by Yuanda's
5 failure or mistake, then of course the cost should be
6 Yuanda's responsibility.

7 BY MR. CARBONE:

8 Q. And in that answer, if the mistake was
9 the responsibility of Yuanda, the cost they would be
10 responsible for would be the design cost, the
11 engineering cost, the material, fabrication cost and
12 the installation cost with respect to the removal of
13 the defective work and the replacement of the work,
14 the project work. Would you agree with that?

15 MR. GILL: Objection. The document speaks
16 for itself. Mischaracterizes the requirement and
17 definition of vendor work. Go ahead and answer.

18 BY THE WITNESS:

19 A. Regarding the responsibilities of both
20 parties, the contract states clearly. So then we go
21 by the contract.

22 BY MR. CARBONE:

23 Q. Let's go to same document. We are going
24 to go to paragraph 19, which is on page 01107. We

1 are still in the purchase order. Are you there,
2 Mr. Tan?

3 A. Yes.

4 Q. Have you found the page in the purchase
5 order, page 01107?

6 A. Yes.

7 Q. Mr. Tan, I am going to direct you down
8 nine lines from the top of that paragraph. And it
9 begins with cost and attorneys' fees. Do you see
10 that line?

11 A. So the line from the top?

12 Q. Yes, of that paragraph.

13 A. You are talking about the last paragraph?

14 Q. That is correct, paragraph 19, ninth line
15 down. Gives the verbiage, quote, costs and
16 attorneys' fees.

17 A. Yes.

18 Q. If you want, you could read that
19 paragraph to yourself. Let me know when you are
20 done, please.

21 A. I am done.

22 Q. Mr. Tan, is it your understanding that if
23 a court was to determine that Yuanda breached the
24 purchase order that Yuanda would be responsible to

1 pay Whitestone's attorneys' fees and costs?

2 MR. GILL: Objection. Calls for legal
3 conclusion, foundation. Go ahead and answer.

4 BY THE WITNESS:

5 A. I won't give any further explanation or
6 opinion. The sentence is written as is.

7 BY MR. CARBONE:

8 Q. I will just get a document.

9 Take a look at Plaintiff's No. 4,
10 please. Mr. Tan, that is Perkins, the first page is
11 a Perkins Eastman document and it has to do with
12 submittal 001 that is dated -- the Perkins Eastman
13 note is dated October 15, 2014. Do you have that
14 document?

15 A. Yes.

16 (WHEREUPON, Exhibit No. 4 was
17 marked for identification.)

18 BY MR. CARBONE:

19 Q. Are you familiar with this document, sir?

20 A. The chief designer was more responsible
21 for this. For these drawings.

22 Q. Are you familiar with this document?

23 Have you seen this document before?

24 A. Yes.

1 Q. Are you familiar with the notation in the
2 box where there's a checkmark where it says revise
3 and resubmit?

4 MR. GILL: Objection. This document was not
5 listed in the Schedule A topic for deposition with
6 the 30(b)(6) notice. So I will direct Mr. Tan to
7 answer these questions. But, counsel, these are
8 being answered based on his personal knowledge and
9 not as a representative of Yuanda.

10 MR. CARBONE: Okay.

11 BY THE WITNESS:

12 A. Counsel, what is your question, please?

13 (WHEREUPON, the record was read by
14 the court reporter.)

15 BY THE WITNESS:

16 A. Yes.

17 BY MR. CARBONE:

18 Q. What does that mean to you?

19 A. So if Whitestone has any -- if they
20 have -- if they expect us to make any changes then on
21 our drawings then we will revise and resubmit back to
22 Whitestone.

23 MR. CARBONE: Just for the record, Mr. Gill,
24 with respect to this document, I believe this

1 document falls within the scope of topics for
2 discussion, many topics but particularly topic number
3 2 with respect to Yuanda's scope of work with respect
4 to shop drawings which is one of the scope items
5 which is spelled out on page 1 of the purchase order.
6 I appreciate your comments. I just want the record
7 to be clear that I believe this document falls within
8 the scope of the topics of discussion.

9 MR. GILL: Counsel, sounds like you and I
10 have worked well. I respectfully disagree to any
11 questions specific to this shop drawing. I agree
12 that shop drawings in general fall within the scope
13 of work. But I will not interfere with any questions
14 regarding this exhibit. I just want to put in the
15 record that I didn't recognize this document or shop
16 drawings in particular as those topics being
17 identified.

18 MR. CARBONE: I appreciate your comments. We
19 don't need to argue about it. I just want the record
20 to be clear that given the purchase order and given
21 the scope that's spelled out in the large paragraph
22 on page 1 of the purchase order it's my position it
23 does appear within the scope.

24 MR. GILL: Okay.

1 BY MR. CARBONE:

2 Q. Let's take a look at what is Plaintiff's
3 5, please, which is another shop drawing submittal
4 number 2. And just so the record is clear, the first
5 shop drawing is Plaintiff's Exhibit 4. That is the
6 first page is Perkins and Eastman. There's a box and
7 there's a submittal, submittal is abbreviated, number
8 001. The date in that box is 10/15/2014. The
9 document begins on page WCC 05789, ends on page 0 --
10 WCC 06144. Just so the record is clear.

11 Mr. Tan, I am asking you to look now
12 at Plaintiff's 5, which is another -- the face sheet
13 is Perkins and Eastman. Similar to the earlier
14 document, there's a box at the top. It refers to
15 file number 020, submittal NO02. It says make
16 corrections noted. There's a checkmark in that box.
17 It's dated February 23, 2015. It begins on page WCC
18 011977 and it ends on page WCC 012351. So I just
19 want to make sure, sir, you have that document?

20 A. So I have the document or Exhibit 4 and
21 5. And I see the first page on both. But
22 specifically I am not sure where you are pointing my
23 to.
24

1 (WHEREUPON, Exhibit No. 5 was
2 marked for identification.)

3 BY MR. CARBONE:

4 Q. All I am asking you is do you have this
5 document in front of you have which is Plaintiff's
6 No. 5?

7 A. Yes.

8 Q. Are you familiar with this document?

9 A. General understanding, yes.

10 Q. In the shaded box on the first page of
11 the document which is WCC.

12 A. Yes.

13 Q. There's actually two number 2's. The
14 third comment, which is the second number 2, it says
15 previous submittal comments must be addressed. Do
16 you see that?

17 A. Yes.

18 Q. Can you tell me what they are referring
19 to when it says previous submittal comments must be
20 addressed?

21 What is Perkins Eastman referring to
22 by that statement? What is your understanding?

23 MR. GILL: Objection. Go ahead and answer.
24

1 BY THE WITNESS:

2 A. My understanding is that we will submit
3 and if there is any response to our submitted
4 documents then we --

5 BY MR. CARBONE:

6 Q. My question is this, Mr. Tan. And just
7 going back to my initial preamble comments with
8 respect to your deposition today, what I'm trying to
9 do is obtain information from you. If you don't know
10 the answer to one of my questions, it is perfectly
11 okay for you to tell me you do not know the answer.
12 Just like if you don't understand one of my
13 questions, it's perfectly okay for you to tell me you
14 don't understand my question. You understand?

15 A. I understand.

16 Q. So on the face sheet of this Exhibit No.
17 5, on the first page, the second comment number 2
18 says previous submittal comments must be addressed.

19 Can you tell me specifically what
20 comments the Perkins Eastman is referring to by this
21 notation?

22 MR. GILL: Same objection.

23 BY THE WITNESS:

24 A. My understanding is that our new

1 submittal needs to respond to the previous comments
2 but not any specific in this one.

3 BY MR. CARBONE:

4 Q. Okay. But with respect to the specific
5 comments that Yuanda was obligated to respond, can
6 you tell me what comments those were by Perkins
7 Eastman?

8 A. So the drawings may have many pages and
9 each page has some comments. So my understanding is
10 that the comments was specific to those drawings.

11 Q. Hold that document and I would like you
12 to take a look at Plaintiff's No. 12 which is the
13 structural glass curtain wall section 084426.

14 A. Yes, I see.

15 (WHEREUPON, Exhibit No. 12 was
16 marked for identification.)

17 BY MR. CARBONE:

18 Q. And if Plaintiff's 12, section 084426,
19 structural glass curtain wall, and it begins on page
20 WCC 011814 and it ends on page 01833. Now, if we go
21 to the second physical page of the document, which is
22 011815, I'm going to direct your attention to section
23 1.03, performance requirements. Paragraph B begins
24 with the word general. Do you see that?

1 A. Yes.

2 Q. If you look at that section, it reads B,
3 general, provide glass-supported glaze curtain wall
4 systems, including anchorage capable of withstanding
5 without failure the effects of the following.

6 And I am going to skip to number 3
7 where it says movements of supporting structures
8 indicated on drawings, included but not limited to
9 story drift, twist, column shortening, long-term
10 creep and deflection from uniformly distributed and
11 concentrated live loads. A, where the wall spans
12 between two independent buildings, the movements of
13 supporting structure ought to be taken as the worst
14 case combination of the independent movement of the
15 two buildings.

16 Do you see that?

17 A. Yes, I see.

18 Q. And do you understand that the Perkins
19 Eastman complaint about the propriety of the Yuanda's
20 work as conveyed by Sciame and as conveyed by
21 Whitestone was at the point of the WT-3 clerestory
22 which at the intersection of the academic building
23 above and the gymnasium building below? Do you
24 understand --

1 MR. GILL: Objection. Sorry, I thought that
2 was the end the question. Go ahead.

3 MR. CARBONE: I will end my question so you
4 can object.

5 MR. GILL: Foundation, mischaracterizes
6 facts. Go ahead and answer.

7 BY THE WITNESS:

8 A. We have to go by our calculation because
9 I am not -- I don't have expertise in this area. I
10 also don't have a personal opinion.

11 BY MR. CARBONE:

12 Q. Mr. Tan, I am not asking you for any
13 opinions. I am just asking you if you know at the
14 location of the overall structure that's being built
15 that the location of the WT-3 clerestory curtain
16 wall, that is at a location where the academic
17 building is the component that connects the academic
18 building above with the gymnasium below is the WT-3
19 clerestory curtain wall? That's all I am asking.

20 MR. GILL: Objection. Mischaracterizes the
21 facts. If you want to show him structural drawings
22 and talk about structural drawings. But foundation.
23 Go ahead and answer.

24

1 BY THE WITNESS:

2 A. I understand that the conflict right now
3 is about this WT-3 clerestory area.

4 BY MR. CARBONE:

5 Q. Mr. Tan, I understand the conflict. I am
6 asking you if you are familiar with the physical
7 location of the building where the WT-3 clerestory
8 curtain wall is located? That's all I am asking you,
9 is the location.

10 A. Yes.

11 Q. And is it your understanding -- strike
12 that. Let's take a look at Plaintiff's No. 6 which
13 is Sciame transmittal dated 1/23/2017. It begins on
14 WCC 04600 and ends on WCC 04607. Do you have that
15 document?

16 A. Yes, I see.

17 (WHEREUPON, Exhibit No. 6 was
18 marked for identification.)

19 BY MR. CARBONE:

20 Q. If you go to the third page of that
21 document which is an S drawing, S-133.00 which is on
22 WCC page 04602. I want you to go to that page, okay?

23 A. Yes, I see the third page of the
24 document.

1 Q. On the third page there's two boxes
2 highlighted in yellow; correct?

3 A. Yes.

4 Q. And the box to the left it says note, WSP
5 noted. Do you see that box? I am going to withdraw
6 that question because both boxes begin that way.
7 It's a confusing question so I will withdraw it.

8 The box to the left, the yellow box
9 to the left has a red arrow leading from the left of
10 the box to a box that is also in red but it's not
11 highlighted. And the first thing it says in that box
12 is maximum deflection or maximum DEFL along D. Do
13 you see that?

14 A. Yes.

15 Q. And then out of that box there's an arrow
16 that leads up -- yes, there's an arrow that leads up
17 and to the right and then there's a line that that
18 arrow leads to. And that line, that is the location,
19 is it not, of the WT-3 clerestory curtain wall?

20 A. This is a structural drawing and from my
21 background I can't be certain.

22 Q. So you can't tell from this drawing it is
23 or not location of the WTC-3 clerestory curtain wall?
24 That's your testimony?

1 A. Correct. I can't be certain whether this
2 is where the WTC-3 curtain wall is.

3 Q. Okay. In the calculation submitted by
4 Yuanda as part of this shop drawing submittal 01 and
5 shop drawing submittal 02, which are Plaintiff's 4
6 and Plaintiff's 5, can you tell me if there is any
7 Yuanda calculations contained in there in those
8 submittals addressing the deflection between the
9 bottom of the academic building -- the deflection at
10 the bottom of the academic building and the
11 deflection at the top of the auditorium or gymnasium
12 of the building below? Can you tell me if those
13 calculations exist as part of the Yuanda shop drawing
14 package?

15 MR. GILL: Objection. Mischaracterizes the
16 contract documents specifically what the drawings
17 show regarding the buildings and also what is
18 contained in Exhibit 4 and 5. Go ahead and answer.
19 BY THE WITNESS:

20 A. Well, Plaintiff's Exhibit 4 and 5 I only
21 have the chance to browse through this morning and
22 they have several hundred pages maybe. So I can only
23 speak from general terms that, yes, will have drawing
24 and calculation with our submittal.

1 BY MR. CARBONE:

2 Q. My question is very specific. It's not
3 general in nature.

4 Can you tell me if included within
5 the Yuanda calculations submitted as part of
6 Plaintiff's 4 and Plaintiff's 5 Yuanda has
7 calculations addressing the deflection of the
8 academic building and of the auditorium and gymnasium
9 below?

10 MR. GILL: Objection to Exhibit 4 and 5 do
11 not contain calculations. If you want to answer
12 questions about calculations present him with the
13 calculations. Go ahead and answer.

14 BY THE WITNESS:

15 A. So I answered you earlier but I can still
16 only tell you that usually with our submittal we will
17 include the calculation, yeah, but because this is
18 not my expertise. I really don't understand
19 everything about the -- or I don't understand what's
20 in the calculation in the submittal.

21 BY MR. CARBONE:

22 Q. Mr. Tan, can you testify that once Yuanda
23 received Plaintiff's Exhibit 5 from Whitestone
24 whether Yuanda put the curtain wall into fabrication?

1 A. Usually we will receive the revised
2 design and/or the drawing and then we will start
3 fabricating. Oh, okay, approved drawings.

4 Q. My question, Mr. Tan, is this. Can you
5 tell me, and if you can't that's fine. Can you tell
6 me once Yuanda received the Perkins Eastman submittal
7 number 2, which is Plaintiff's No. 5 marked make
8 corrections noted, did Yuanda put the curtain wall
9 WTC-3, clerestory into production? If you know.

10 A. I'm not sure whether we started the
11 fabrication after we have received the revised
12 drawing in Exhibit 5.

13 Q. Mr. Tan, could you tell me -- strike
14 that.

15 Would you agree that the
16 specifications section that is applicable to the
17 WTC-3 clerestory is a structural glass curtain wall
18 spec which is Plaintiff's Exhibit 12?

19 MR. GILL: Objection. Foundation. Go ahead
20 and answer.

21 BY THE WITNESS:

22 A. Usually after we receive the specs we
23 would give it to licensed professional engineer to
24 calculate. So from a professional perspective, it's

1 up to the professional engineer to decide if it is a
2 good fit or suitable or not.

3 BY MR. CARBONE:

4 Q. Mr. Tan, I am asking you a totally
5 different question. My question to you simply is
6 this. You are presented here today as a corporate
7 representative. I am asking you about a spec section
8 that is spelled out as part of Yuanda scope of work
9 in the purchase order. And I am asking you if this
10 specification section is the specification section
11 that governs the fabrication of the WTC-3 clerestory
12 curtain wall. Please answer that question, if you
13 can. And if you can't answer that question, just let
14 me know.

15 MR. GILL: Objection. Foundation. Misstates
16 prior testimony. Go head and answer.

17 BY THE WITNESS:

18 A. If your question is if these specs govern
19 the fabrication of the Yuanda WTC-3 fabrication, I
20 actually cannot answer that question.

21 BY MR. CARBONE:

22 Q. Thank you. That's all I asked for.

23 Can you tell me whether prior to the
24 fabrication of the WTC-3 clerestory curtain wall if

1 Yuanda ever prepared any calculations addressing the
2 independent movements of the two buildings that are
3 referenced in Plaintiff's 12 on the second physical
4 page under 1.03, performance requirements, paragraph
5 B3?

6 MR. GILL: Objection. Foundation. There is
7 no evidence at all in the contract documents or in
8 the deposition that there are two independent
9 buildings at issue. So go ahead and answer if you
10 can.

11 MR. CARBONE: Mr. Gill, I'd appreciate if you
12 stop, you know, coaching the witness.

13 MR. GILL: I am not.

14 MR. CARBONE: You can have the objection but
15 you don't have to tell him the answer.

16 MR. GILL: I am not telling him the answer.
17 I am telling you that you are misstating the document
18 and I'm giving you the opportunity to correct your
19 misstatement.

20 MR. CARBONE: I think you are coaching the
21 witness.

22 MR. GILL: Well, then you can make that
23 objection to the judge. You know full well because
24 in the deposition of the other witnesses what you are

1 saying is 100 percent incorrect. You know that.

2 BY MR. CARBONE:

3 Q. Mr. Tan, my question is very simple,
4 there's a reference here in the specification that I
5 cited. It talks about the worst case combination of
6 the independent movements of the two buildings. My
7 question to you is, do you have any knowledge of
8 Yuanda having calculations to address what is being
9 referenced in this section of the specifications?

10 MR. GILL: Objection. Foundation. What two
11 buildings are you referring to?

12 MR. CARBONE: I am asking him if he can
13 identify the two buildings that are referenced in
14 this spec and if Yuanda ever prepared calculations in
15 connection with those buildings.

16 MR. GILL: Objection. Foundation to the
17 extent this specification is relevant to the WTC-3
18 clerestory. Go ahead.

19 MR. CARBONE: The witness said this
20 specification governs WTC-3 -- strike that. He
21 didn't know answer. My apologies. Go ahead.

22 BY MR. CARBONE:

23 Q. Could you an my question, Mr. Tan?

24 MR. GILL: Please answer.

1 BY THE WITNESS:

2 A. Same response. The calculation we will
3 actually give the drawing to a structural engineer
4 and that takes expertise. So the structural engineer
5 will -- it's based on his judgment, his or her
6 judgment.

7 BY MR. CARBONE:

8 Q. Let's take a look at Plaintiff's No. 7,
9 which is a Sciame RFI transmittal dated November 9,
10 2016. And also I am going to show you Plaintiff's 8,
11 which is a Sciame RFI transmittal dated 12/29/16. I
12 would like you to --

13 A. Yes, I have both.

14 (WHEREUPON, Exhibit No. 7 was
15 marked for identification.)

16 (WHEREUPON, Exhibit No. 8 was
17 marked for identification.)

18 BY MR. CARBONE:

19 Q. Let's look at Plaintiff's 7 first which
20 is the Sciame RFI transmittal dated November 9, 2016,
21 WCC page 09968 through WCC 09982. You have that
22 please?

23 A. Yes, yes.

24 Q. I would like you to go to the third

1 physical page of the document which is -- there's a
2 bolded -- not bolded. It's highlighted in yellow,
3 page 09970. That's the box, the bigger of the two
4 boxes. It says two. And it says the structural
5 adequacy of this anchor as the relative movements
6 between the auditorium roof and main building still
7 has not been submitted.

8 Do you see that?

9 A. Yes, I see.

10 Q. And in the second -- in the number 2, the
11 note, it says the relative -- strike that.

12 This document, Mr. Tan, have you
13 ever seen this document before today?

14 A. I won't say I haven't seen it before.
15 But I have no detailed knowledge.

16 Q. Mr. Tan, on this particular project --
17 THE INTERPRETER: You're breaking up. The
18 interpret hears too.

19 MR. CARBONE: Let me stop the video and then
20 come back on and see if anything changes.

21 THE VIDEOGRAPHER: We are now going off the a
22 record at 12:45 p.m.

23 (WHEREUPON, a recess was had.)

24 THE VIDEOGRAPHER: Back on the record at

1 12:57 p.m.

2 BY MR. CARBONE:

3 Q. Mr. Tan, looking at Plaintiff's 7, which
4 is the RFI which is 1033 that's dated November 9,
5 2016 on page 09970, number 2, it refers to the
6 relative movements between auditorium roof in main
7 building still has not been submitted.

8 Do you see that, sir?

9 A. Yes, I see the note.

10 Q. Can you tell me whether prior to the
11 fabrication of the Yuanda materials, Yuanda ever
12 prepared calculations addressing the relative
13 movements between auditorium roof and the main
14 building.

15 I just want to know do you have any
16 knowledge of them preparing any calculations?

17 A. This I am not sure.

18 Q. When you say you are not sure, I just
19 want some clarification. Do you think they did
20 prepare calculations or you don't know?

21 A. I know that we have submitted the
22 calculation but I am not sure if our calculation has
23 responded to this note that you mention. Based on
24 the time of the submittal which is October 2016 I

1 believe the WT-3 wall was fabricated, maybe even
2 installed already.

3 Q. Mr. Tan, are you familiar with what
4 efforts Yuanda made to comply with Whitestone's
5 request with respect to the remedial work? Withdraw
6 that.

7 If we can go back to what is
8 Plaintiff's 16, that's the Yuanda letter June 28,
9 2019 authored by Mr. Zhu, Z-h-u. You have that
10 document, sir?

11 A. Yes.

12 Q. And the remedial work, that required shop
13 drawings; is that correct?

14 A. Yes. It needs some new details, yeah.

15 Q. And it also, the remedial work also
16 required certain calculations to be prepared by
17 Yuanda in connection with the new details; is that
18 correct?

19 A. Yes.

20 Q. And once the shop drawings for the
21 remedial work was approved and the calculations were
22 reviewed, in order to perform the remedial work
23 Whitestone needed certain materials to be provided by
24 Yuanda, is that correct, if Yuanda was going to

1 cooperate with respect to the remedial work?

2 THE INTERPRETER: Annette, could you read it
3 back?

4 (WHEREUPON, the record was read by
5 the court reporter.)

6 MR. CARBONE: Let me rephrase that. Hold on.
7 Let's start over because I think before the
8 interpreter interprets for Mr. Tan, I think the court
9 reporter has to read the entire question because
10 otherwise we are getting the answer to the entire
11 question. So let's try that first. Can you read
12 back. And if necessary I would suggest you read it
13 again but I want to make sure you got my entire
14 question.

15 (WHEREUPON, the record was read by
16 the court reporter.)

17 MR. CARBONE: Let me strike that question. I
18 will rephrase it. A little cumbersome there.

19 BY MR. CARBONE:

20 Q. Mr. Tan, would you agree with me in order
21 to cooperate with Whitestone regarding the remedial
22 work that's addressed in Plaintiff's 16 that Yuanda
23 would have to provide to Whitestone shop drawings,
24 approved roof calculations and materials?

1 A. Yuanda has expressed its willingness to
2 cooperate with Whitestone. If Whitestone is going
3 to -- if Yuanda -- if Whitestone has decided to do
4 the remedial work then Yuanda will supply the
5 drawings, the calculation and the material.

6 Q. Mr. Tan, aren't you aware that
7 Whitestone's already performed this remedial work as
8 directed by Sciame?

9 A. Yes, I am aware of this fact because
10 during my correspondence or communication with
11 Whitestone they have shared with us.

12 Q. So, Mr. Tan, you know Whitestone has
13 already performed the remedial work as directed by
14 Sciame and the owner, and yet you are saying that
15 Yuanda was willing to cooperate and to provide --
16 strike that.

17 Mr. Tan, isn't it a fact that Yuanda
18 never provided the materials to Whitestone required
19 by Whitestone to perform the remedial work that's
20 identified in Yuanda's June 28, 2019 letter which is
21 Plaintiff's 16?

22 MR. GILL: Objection. Go ahead and answer.
23 BY THE WITNESS:

24 A. It's not because Yuanda has refused to

1 supply these material. Rather Whitestone has picked
2 their own suppliers. Whitestone has made the
3 decision to procure these materials for different
4 reasons.

5 BY MR. CARBONE:

6 Q. Well, Mr. Tan, just so the record is
7 clear, then you are in fact aware that Yuanda did not
8 provide the material required by Whitestone to
9 perform the remedial work; is that correct?

10 MR. GILL: Objection. Go ahead and answer.

11 BY THE WITNESS:

12 A. We have supplied some parts such as
13 gaskets. But for a few parts due to the timeline
14 concern Whitestone has decided to make their own
15 purchase.

16 BY MR. CARBONE:

17 Q. So just to be clear, you know as a fact,
18 you have personal knowledge that Yuanda did not
19 provide all the materials required by Whitestone to
20 perform the remedial work referenced in Yuanda's June
21 28 letter?

22 MR. GILL: Objection. Go ahead and answer.

23 BY THE WITNESS:

24 A. My answer is the same as what I just said

1 earlier. Whitestone decided to purchase from someone
2 else and so Yuanda did not supply all the material.

3 BY MR. CARBONE:

4 Q. And one of the reasons Whitestone advised
5 you why they were getting the materials from a third
6 party was because Yuanda was not supplying the
7 materials to Whitestone in a timely manner. Would
8 that be a fair statement?

9 MR. GILL: Objection. Go ahead and answer.

10 BY THE WITNESS:

11 A. My understanding is that Whitestone did
12 not have enough time between their decision to do to
13 the work and so they didn't have enough time for
14 Yuanda to fabricate the material so they have made
15 the decision to purchase from some other company.

16 BY MR. CARBONE:

17 Q. Mr. Tan, is the testimony you just gave,
18 is that based on your own personal knowledge or is
19 that based on information you received from someone
20 else at Yuanda?

21 A. I personally have participated with the
22 Whitestone for this -- I personally have participated
23 in the communication, so that's how I came to know.

24 Q. Mr. Tan, if we refer back to Plaintiff's

1 16, that's Mr. Zhu's letter of June 28, 2019.

2 A. Yes, I see.

3 Q. Yuanda is provided with corresponding
4 cost. That refers to the cost of the shop drawings,
5 the calculations and the materials, doesn't it?

6 A. It corresponds to Whitestone's letter or
7 correspondence to us stating the same.

8 Q. Mr. Tan, my question is, is this -- maybe
9 you don't understand it. The paragraph refers to
10 relevant remedial work and it talks about Yuanda is
11 provided with corresponding cost. And I just want to
12 clarify that the relevant remedial work would include
13 shop drawings, calculations and materials. Is that a
14 fair statement?

15 A. I actually -- I understood your question.
16 And my answer was -- my answer was to answer your
17 question. So Whitestone sent us a letter rejecting
18 our work. And in that letter it mention that for the
19 remedial work there will be corresponding cost for
20 the drawing, the calculation and materials. So when
21 Yuanda responded to Whitestone's letter and when we
22 mentioned the corresponding cost, it's the same or
23 correlates with Whitestone's wording of corresponding
24 cost.

1 Q. So, Mr. Tan, is it your testimony you do
2 not interpret the last paragraph of Mr. Zhu's letter
3 to indicate that if Yuanda is going to cooperate with
4 the remedial work they are expecting to be paid for
5 shop drawings, calculations and for the materials?

6 MR. GILL: Objection. Go ahead and answer.

7 BY THE WITNESS:

8 A. So this is a formal business
9 correspondence. So it's business to business. In
10 their letter, in Whitestone's letter they brought up
11 the corresponding cost. So when we responded it's
12 the same. Actually in the process we have supplied
13 the shop drawings, the calculation and we have agreed
14 to provide material. But we did not mention about
15 asking for more money.

16 Q. Is there any written communications that
17 you are aware of by Yuanda to Whitestone indicating
18 that Yuanda will provide materials for the remedial
19 work to Whitestone without being paid for those
20 materials?

21 Are you aware of any written
22 communications to that effect?

23 A. I am not 100 percent sure whether it's an
24 e-mail or other form of communication. But I am sure

1 we have expressed our willingness.

2 MR. CARBONE: Well, Mr. Gill, I would call
3 for the production of that document or documents
4 because in our review of the documents produced by
5 Yuanda we did not locate any documents to that
6 effect.

7 MR. GILL: It was used in Mr. Grzic's and
8 Mr. Dearth' testimony. I believe it was an e-mail
9 that was Defendant's Exhibit 17 or 18. I will get
10 the reference to it. But before the end of the
11 deposition I will give you the reference to it. That
12 document was used during the deposition though.

13 MR. CARBONE: Mr. Gill, Defendant's 17 --

14 MR. GILL: I overstated. It's not 17. It
15 would be before 17. Exhibit 16.

16 MR. CARBONE: Okay. Thank you, Mr. Gill.
17 For the record, Defendant's Exhibit 16.

18 Do you happen to have -- Mr. Gill,
19 do you happen to have that exhibit?

20 MR. GILL: I have a copy. Do you want me to
21 send it to Mr. Tan?

22 MR. CARBONE: Maybe I will just refer to the
23 exhibit, Mr. Gill. If you want to send it to him
24 that's fine.

1 MR. GILL: I will. Mr. Tan should receive it
2 shortly.

3 BY MR. CARBONE:

4 Q. Mr. Tan, let me know when you get the
5 document.

6 A. Okay, I receive it.

7 Q. The document we are referring to now is
8 Defendant's 16. That is an e-mail from Mr. Tan to
9 Steven Grzic on which Phil Carvelas, C-a-r-v-e-l-a-s,
10 is copied. That's dated April 27, 2020.

11 Do you have any earlier written
12 communication to Mr. Grzic or anybody else at
13 Whitestone indicating that Yuanda can bear the
14 material and shipping cost for the remedial work?

15 A. We have a lot of communication over a
16 long period of time with Whitestone, so I am not sure
17 if it was expressed earlier in an e-mail or maybe
18 possibly on the phone call. But I know that we had
19 communication with Whitestone regarding this.

20 Q. My question, Mr. Tan, is that writing is
21 April of 2020. And just for your edification, the
22 lawsuit was commenced in July -- I have the wrong
23 summons. The lawsuit was commenced well in advance
24 of that date.

1 I am asking you about written
2 communications between Yuanda and Whitestone. Are
3 you aware of any written communications prior to that
4 April 27, 2020 communication where Yuanda is
5 indicating to Whitestone they will provide the
6 materials and the shipping cost free of charge to
7 Whitestone? I am just asking if you are aware.

8 MR. GILL: Objection. Go ahead and answer.

9 BY THE WITNESS:

10 A. Right now I cannot give you a definite
11 answer because I am not sure. I can check my e-mail.
12 I need to check my e-mail to obtain more information
13 or to answer your question.

14 MR. CARBONE: Mr. Gill, I would like to leave
15 a space in the record and to the extent Mr. Tan would
16 be kind enough to check his e-mail. If he has any
17 written communications between anyone at Whitestone
18 wherein Yuanda is agreeing to provide the material
19 and shipping at its expense as opposed to
20 Whitestone's expense I would like those documents to
21 be produced.

22 MR. GILL: To the extent that Whitestone does
23 not have those documents Yuanda will produce them.

24 BY MR. CARBONE:

1 Q. Mr. Tan, as of April 27, 2020, are you
2 aware that the remedial work -- strike that.

3 As of April 27, 2020, are you aware
4 as to the status of Whitestone's performance of what
5 we are calling the remedial work?

6 A. I won't be able to provide you an exact
7 time point. But I have had communication with
8 Whitestone along the way.

9 Q. That's not my question. My question is,
10 do you know as of April 27, 2020 whether Whitestone
11 had started the remedial work?

12 Do you know whether they had
13 completed the remedial work? I am asking you if you
14 know the status of Whitestone's performance of the
15 remedial work. That's all I am asking.

16 A. April 27 I am not sure what their status
17 is for -- I mean Whitestone status is for the
18 remedial work.

19 Q. With respect to the materials that are
20 being addressed in Defendant's 16 which is your April
21 27, 2020 e-mail, how long would it have taken Yuanda
22 to fabricate those materials?

23 A. Right now I cannot recall exact time we
24 gave Whitestone but I know that we have given them a

1 timeline for fabrication to delivery to the
2 construction site.

3 Q. And that timeline would that be an e-mail
4 or communication after this April 27, 2020 date or
5 before?

6 A. I am not sure about this exact time.

7 MR. CARBONE: So, Mr. Gill, my request is, I
8 will just reiterate the request. If there's any
9 documents that could answer the question I posed to
10 Mr. Tan regarding any written communications
11 regarding a timeline for the providing of the
12 materials and the shipping materials for the remedial
13 work to Whitestone I'd ask they be produced.

14 MR. GILL: To the extent they haven't been
15 produced and to the extent that Whitestone does have
16 them we will produce.

17 BY MR. CARBONE:

18 Q. If we can take a look at Plaintiff's 17,
19 Goetz Fitzpatrick's letter dated July 26, 2019.
20 Mr. Tan, you are copied on this letter. Do you
21 recall receiving a copy of this letter from my
22 office?

23 A. I do.
24

1 (WHEREUPON, Exhibit No. 17 was
2 marked for identification.)

3 BY MR. CARBONE:

4 Q. Do you recall whether either Mr. Zhu or
5 you responded or anyone responded to this letter on
6 behalf of Yuanda?

7 A. I believe we did.

8 Q. And was your response produced to your
9 attorney as part of the document discovery in this
10 litigation, to your knowledge?

11 THE INTERPRETER: I'm sorry, I didn't get
12 that.

13 (WHEREUPON, the record was read by
14 the court reporter.)

15 BY THE WITNESS:

16 A. I believe so.

17 MR. CARBONE: Mr. Gill, I would just to the
18 extent the document has not been produced and to the
19 extent it was produced by Yuanda as part of the
20 discovery process, if it wasn't produced I'd ask that
21 it be produced and if it was produced if you know
22 where it was produced in your document discovery if
23 you could point that out or simply point out that it
24 was produced it would be much appreciated.

1 MR. GILL: Okay.

2 BY MR. CARBONE:

3 Q. The response that you are referring to,
4 Mr. Tan, was that a response from you or was that a
5 response from Mr. Zhu or was that a response from
6 attorneys, if you know?

7 A. I can't recall how we have responded
8 right now. Maybe e-mail or a formal letter.

9 Q. Mr. Tan, are you familiar with what is
10 Plaintiff's 18 which is another Goetz Fitzpatrick
11 letter dated February 23, 2019?

12 A. I don't have a clear recollection.

13 (WHEREUPON, Exhibit No. 18 was
14 marked for identification.)

15 MR. CARBONE: Mr. Gill, I have the same
16 request with respect to this letter as I did with the
17 earlier Goetz Fitzpatrick letter.

18 MR. GILL: Okay. If I can clarify something?
19 Can we go off the record?

20 THE VIDEOGRAPHER: We're now off the record
21 at 1:45 p.m.

22 (WHEREUPON, a discussion was held
23 off the record.)

24 THE VIDEOGRAPHER: Back on the record at

1 p.m.

2 BY MR. CARBONE:

3 Q. Mr. Tan, if you can take a look at what
4 has been Plaintiff's Exhibit 23, please. Let me know
5 when you get it.

6 A. Yes.

7 (WHEREUPON, Exhibit No. 23 was
8 marked for identification.)

9 BY MR. CARBONE:

10 Q. On the first page of the document which
11 is WCC 04972. Just for the record, the document goes
12 on to page 04981. Looking at page 4972, the first
13 page. This is an e-mail sent by you on April 22,
14 2019; is that correct?

15 A. Yes.

16 Q. And in the last line or the last sentence
17 of the document, it says, Yuanda is suppose to and
18 entitled to be paid long time ago in accordance with
19 the contract.

20 Do you see that?

21 A. Yes.

22 Q. Prior to your sending this e-mail in
23 April of 2019, did you send any written
24 correspondence to Whitestone indicating that Yuanda

1 would provide in connection with the remedial work
2 free of charge shop drawings, calculations or
3 materials?

4 A. I won't be sure unless I check my e-mails
5 because it was a long time ago.

6 MR. CARBONE: I think I am going to request
7 that Mr. Tan check his e-mails. And if there are any
8 e-mails addressing my question I call for their
9 production. I think I've already called for their
10 production earlier though. I will do it again just
11 to be safe.

12 MR. GILL: We will produce them.

13 BY MR. CARBONE:

14 Q. Mr. Tan, take a look at Plaintiff's 22 if
15 you would, please. Do you have it?

16 A. Yes.

17 (WHEREUPON, Exhibit No. 22 was
18 marked for identification.)

19 BY MR. CARBONE:

20 Q. Mr. Tan, I guess if you go -- this is a
21 chain of e-mails. And the first e-mail that has a
22 date is an e-mail Saturday, April 28, 2018 at
23 a.m. It's addressed to Mr. James Dearth. It's on
24 page WCC 04011, and then the last page of the e-mail

1 chain is 004023.

2 Mr. Tan, if you look at the page
3 which is 04014, if you could go to that page, there's
4 an e-mail in the middle. I believe you are cc'd on
5 that e-mail. If you could go to that page.

6 A. Yeah, I am looking at it.

7 Q. Were you privy to what was being
8 discussed, the technical issues being discussed
9 between Yuanda, Yuanda's personnel on one hand and
10 Whitestone's personnel on the other hand in
11 connection with the building movement at WT-3?

12 A. If I were copied on the e-mail I could
13 see.

14 Q. Well, if you look at page 04014, you were
15 copied on the e-mail. You see that?

16 A. Yes.

17 Q. Did you have an understanding of the
18 technical issues that were being discussed by
19 Whitestone and Yuanda in this e-mail trail?

20 A. I have a general understanding that the
21 conflict or the issue is about the degree of the
22 deflection. But as for how to make the changes, then
23 for the technical details it's our technical folks.
24 They communicate with Whitestone so I wouldn't know

1 of the technical details.

2 Q. But you have an understanding that the
3 issue or the conflict is addressing the degree of the
4 deflection. And when you talk about the degree of
5 deflection, what are you referencing? The degree of
6 the deflection of what?

7 A. It refers to WT-3, the curtain wall.
8 WT-3 curtain wall, the movement. The level of
9 movement. So the conflict point at this specific
10 location, the WT-3 as the clerestory in the WT-3
11 curtain wall how big the deflection should be.
12 Relative movement. How big the relative movement
13 should be.

14 Q. And are they talking about the deflection
15 and the relative movement of the academic building
16 versus the auditorium or the gymnasium?

17 A. So the academic building while we are
18 speaking of the whole project because we are talking
19 about the wall, the curtain wall for the academic
20 building.

21 MR. CARBONE: Last exhibit is -- Mr. Gill,
22 did you have an opportunity to give Mr. Tan
23 Plaintiff's 45, the one expert report of February 1?

24 MR. GILL: I did forward it to him this

1 morning when I got to the office. So he should have
2 that.

3 BY MR. CARBONE:

4 Q. Do you have it, Mr. Tan?

5 A. Yes.

6 (WHEREUPON, Exhibit No. 45 was
7 marked for identification.)

8 BY MR. CARBONE:

9 Q. Mr. Tan, did you have any discussions
10 with the author of this report, Mr. Wei, prior to the
11 compilation of this report?

12 MR. GILL: I object because pursuant to the
13 scheduling order expert reports were supposed to be
14 by the same day discovery was closed. So this topic
15 would not have been a topic you could have asked him
16 about. But I will direct Mr. Tan to answer the
17 question so that we don't get into -- as you said,
18 there's no reason to fight just for the sake of
19 fighting. I want to put in the record that the
20 report would have been issued after his deposition if
21 we had honored the schedule. So go ahead and answer,
22 Mr. Tan.

23 BY THE WITNESS:

24 A. So what is your question now?

1 BY MR. CARBONE:

2 Q. My question is, did you ever discuss the
3 compilation of this report with the author of the
4 report, Mr. Wei, W-e-i?

5 A. I am not clear about the content details
6 because I -- just this morning Adam forwarded it to
7 me. I think it's our technical expert wrote this. I
8 was aware that the technical director was preparing
9 this letter, but as for the contents of the letter I
10 only saw this morning.

11 Q. My question is, given that you were aware
12 of the technical director drafting this document, did
13 you have any verbal or written communications with
14 him regarding his preparation of the document?

15 A. I have notified our technical director
16 about the need to produce the letter. But as for the
17 contents, details, I have no knowledge.

18 MR. CARBONE: Mr. Gill, I am finished with
19 the deposition of Mr. Tan. Mr. Tan and everybody
20 else, I would like to thank you four your efforts
21 today.

22 Mr. Gill, as far as the deposition
23 transcript are you waiving signature?

24 MR. GILL: Hold on, I have some follow-up

1 questions. But we are reserving signature. I just
2 have a couple of questions.

3 EXAMINATION

4 BY MR. GILL:

5 Q. If you could look to Plaintiff's Exhibit
6 15 which is the Whitestone letter dated June 24,
7 2019.

8 A. Yes.

9 Q. You were questioned by Mr. Carbone, you
10 testified that this may have been one of several
11 communications to Whitestone where Whitestone
12 indicated Sciame's rejection. Do you recall that
13 testimony?

14 A. I am not sure if this is the first one
15 but I am sure that this is one of the official
16 letters we have received from Whitestone.

17 Q. And you see in Exhibit 15 the first line
18 of the letter states: We are writing to formally
19 notify you that Sciame has rejected as non-conforming
20 Yuanda's certifications of the WT-3 structural
21 components? Do you see that?

22 A. Yes, I do.

23 Q. Have you ever -- are you aware of any
24 letter or e-mail communication from Whitestone where

1 Whitestone tells Yuanda that Whitestone is rejecting
2 it, not Sciame is rejecting, where Whitestone itself
3 is rejecting Yuanda's work?

4 MR. CARBONE: Objection to form.

5 BY THE WITNESS:

6 A. It was Whitestone who has forwarded the
7 information to Yuanda that Sciame has rejected the
8 work.

9 BY MR. GILL:

10 Q. If you can turn to Exhibit 5, which is
11 the revised shop drawings, in the middle.

12 A. Yes.

13 Q. You see on the first page which is WCC
14 11977?

15 A. Yes, I see.

16 Q. The top left-hand corner says Perkins
17 Eastman submittal review comments, and then there's a
18 box under there?

19 A. Yes.

20 Q. And you see the first line in the box it
21 says specification section 084413?

22 A. Yes.

23 Q. And you see there's no reference to
24 specification section 084426?

1 A. So the specs referring to what?

2 Q. There's only one reference. That one
3 reference is 084413.

4 A. Yeah, I see that.

5 Q. If you can turn to the third page of
6 Exhibit 5, WCC 11979.

7 A. Yes.

8 Q. The upper left-hand corner of that page
9 it says -- there's a box that says Whitestone
10 Construction Corporation?

11 A. Yes.

12 Q. You see the four lines under that says
13 specification 084413-186-glazed aluminum curtain
14 wall?

15 A. Yes.

16 Q. You know what that refers to?

17 A. I am not sure about the 186. The first
18 part I know it's a serial number.

19 Q. Serial number for what?

20 A. Specs.

21 Q. And you see it says glazed aluminum
22 curtain wall. Do you know what that refers to?

23 A. Yes, it is -- I know.

24 Q. What is it?

1 A. My understanding is that it's a
2 structural or architectural draft facade wall.

3 Q. Is that different from the structural
4 glass curtain wall?

5 MR. CARBONE: Objection to form.

6 BY THE WITNESS:

7 A. My understanding is that curtain wall
8 refers to a unitized curtain wall.

9 BY MR. GILL:

10 Q. Again looking at Exhibit 5, the third
11 page, the last line in the box says DWG shops,
12 bracket, WT-1, 3, 6, 8, end bracket, full scope.

13 Do you know what that WD refers to?

14 A. These are different facade wall types for
15 this project.

16 Q. And the one we are talking about in this
17 litigation is WT-3; is that correct?

18 A. Correct.

19 MR. GILL: That's all I have.

20 FURTHER EXAMINATION

21 BY MR. CARBONE:

22 Q. Mr. Tan, with respect to the drawings
23 and, shop drawings that are attached here, can you
24 tell me whether the shop drawings that are included

1 as part of this submittal if they also include the
2 shop drawings for the structural glass curtain wall
3 which is referenced in section 084426?

4 THE INTERPRETER: Annette, can you please
5 read that back to me.

6 (WHEREUPON, the record was read by
7 the court reporter.)

8 BY THE WITNESS:

9 A. I won't be able to give you a definite
10 answer because from the Whitestone -- let me rephrase
11 this. First off, Exhibit 5 I haven't studied it
12 completely so I am not sure if it includes the all
13 glass curtain wall. But from Whitestone's stamp, it
14 shows that it is the WT-3 should be included in the
15 drawings.

16 BY MR. CARBONE:

17 Q. Mr. Tan, the interpreter refers to all
18 glass curtain wall. I was referring to the
19 structural glass curtain wall. Did the interpreter
20 misspeak in that you really meant the structural
21 glass curtain wall as opposed to the all glass
22 curtain wall?

23 A. I wanted to say WT-3 type of wall.

24 Q. If we go back to the purchase order for a

1 second, please. That's Plaintiff's, I believe 2.

2 Mr. Tan, are you there?

3 A. Yes, I found.

4 Q. On page -- the first page of the document
5 which is 01100, it was that big paragraph towards the
6 middle. And it began with Yuanda USA Corp: Do you
7 see that?

8 A. Yes.

9 Q. And if you go to the bottom of that
10 paragraph and count up, 1, 2, 3, 4, 5 lines, it talks
11 about specifications. And one of the specifications
12 listed is specification 04426. Do you see that?

13 MR. GILL: Objection. This is beyond the
14 scope of what I asked Mr. Tan about.

15 MR. CARBONE: It's really not.

16 MR. GILL: I didn't ask him about the
17 purchase order.

18 MR. CARBONE: It doesn't matter. You asked
19 him about the spec section.

20 MR. GILL: Ask him about the spec section.
21 That's fine.

22 MR. CARBONE: I am asking him. I am going
23 about asking him unless you direct him not to answer.

24 MR. GILL: I may.

1 MR. CARBONE: Okay.

2 BY MR. CARBONE:

3 Q. You see that, Mr. Tan?

4 A. Yes.

5 Q. That spec section which is spec section
6 084426 which is the structural glass curtain wall
7 section which is referenced in Plaintiff's Exhibit
8 12, that is part of Yuanda's scope of work in the
9 purchase order; correct?

10 A. WT-3 is our work scope.

11 Q. That spec section is Yuanda's work scope
12 as well; is that correct?

13 A. Correct.

14 Q. And would I -- would it be safe to say
15 that Yuanda would not have fabricated the curtain
16 wall that is referenced in 084426 without an approval
17 from the owners, architect and engineer which is the
18 architect and engineer of record on the project?

19 A. Our contract was signed with Whitestone,
20 so if Whitestone has approved, then we will start the
21 fabrication process.

22 Q. Mr. Tan, I want to make sure I understand
23 it. The entity who is approving your shop drawings
24 is not Whitestone but Perkins Eastman who is the

1 architect and engineer of record for the project;
2 isn't that correct?

3 MR. GILL: Objection. Mischaracterizes the
4 witness' testimony, misstates the requirements of the
5 contract, asked and answered. Go ahead and answer
6 again.

7 BY THE WITNESS:

8 A. You are right. The review was done by
9 the architect and the engineers. But the notice we
10 received from Whitestone. No matter what kind of
11 documents they are, we received them from Whitestone.
12 It's Whitestone who forward these documents to us.

13 MR. CARBONE: I have nothing further.

14 MR. GILL: We reserve signature. You are
15 ordering?

16 MR. CARBONE: Yes, I definitely am ordering
17 the transcript of Mr. Tan's testimony.

18 MR. GILL: We are not ordering right now. We
19 will get back to you on that.

20 THE VIDEOGRAPHER: We're now off the record
21 at 2:26 p.m. This concludes today's testimony given
22 by Charles Tan. The total number of media files will
23 be four and will be retained by Veritext Midwest.

24 (WHEREUPON, signature was

Page 110

reserved.)

(WHEREUPON, at 2:25 p.m. the
deposition was concluded.)

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1 CERTIFICATE
2 OF
3 CERTIFIED SHORTHAND REPORTER
4
5

6 I, ANNETTE BREWER, a Certified
7 Shorthand Reporter of the State of Illinois, CSR
8 License No. 84-4121, do hereby certify:

9 That previous to the commencement of
10 the examination of the aforesaid witness, the witness
11 was duly sworn by me to testify the whole truth
12 concerning the matters herein;

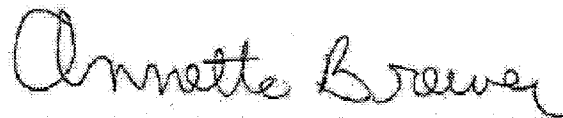
13 That the foregoing deposition
14 transcript was reported stenographically by me, was
15 thereafter reduced to typewriting under my personal
16 direction and constitutes a true and accurate record
17 of the testimony given and the proceedings had at the
18 aforesaid deposition;

19 That the said deposition was taken
20 before me at the time and place specified;

21 That I am not a relative or employee
22 or attorney or counsel for any of the parties herein,
23 nor a relative or employee of such attorney or
24 counsel for any of the parties hereto, nor am I

1 interested directly or indirectly in the outcome of
2 this action.

3 IN WITNESS WHEREOF, I do hereunto
4 set my hand at Chicago, Illinois, this 17th day of
5 February 2021.

6
7 
8

ANNETTE BREWER

9 CSR License No. 84-4121

Veritext Legal Solutions

1100 Superior Ave

Suite 1820

Cleveland, Ohio 44114

Phone: 216-523-1313

February 18, 2021

To: Mr. Gill

Case Name: Whitestone Construction Corp. v. Yuanda USA Corp.

Veritext Reference Number: 4439884

Witness: Minghiua Tan Deposition Date: 2/4/2021

Dear Sir/Madam:

The deposition transcript taken in the above-referenced matter, with the reading and signing having not been expressly waived, has been completed and is available for review and signature. Please call our office to make arrangements for a convenient location to accomplish this or if you prefer a certified transcript can be purchased.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4439884

CASE NAME: Whitestone Construction Corp. v. Yuanda USA Corp.

DATE OF DEPOSITION: 2/4/2021

WITNESS' NAME: Minghiua Tan

In accordance with the Rules of Civil
Procedure, I have read the entire transcript of
my testimony or it has been read to me.

I have made no changes to the testimony
as transcribed by the court reporter.

Date Minghiua Tan

Sworn to and subscribed before me, a
Notary Public in and for the State and County,
the referenced witness did personally appear
and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn
Statement; and
Their execution of this Statement is of
their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 4439884

CASE NAME: Whitestone Construction Corp. v. Yuanda USA Corp.

DATE OF DEPOSITION: 2/4/2021

WITNESS' NAME: Minghiua Tan

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Minghiua Tan

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;

They have listed all of their corrections in the appended Errata Sheet;

They signed the foregoing Sworn Statement; and

Their execution of this Statement is of their free act and deed.

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ERRATA SHEET

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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